

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.NO. 271/2005

FRIDAY THE 17th DAY OF NOVEMBER, 2006

C O R A M

**HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN
HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER**

Smt. Lakshmiikutty Amma
w/o late C. Vijayan Pillai S/o late Chellappan Pillai
Postman (compulsorily retired)
Kollam
residing at Sree Mandiram
Muttara PO, Odanavattom,
Kottarakkara.

Applicant

By Advocate Mr. N. Unnikrishnan

Vs.

- 1 Union of India represented by the
Secretary to Government of India
Ministry of Communications
New Delhi.
- 2 The Chief Postmaster General
Department of Posts
Kerala Circle
Trivandrum-675 033
- 3 The Director of Postal Services
Office of the Chief Postmaster General
Kerala Circle,
Trivandrum
- 4 The Senior Superintendent of Post Offices
Kollam Division
Kollam

Respondents

By Advocate Mr. TPM Ibrahim Khan, SCGSC

O R D E R

HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN

This Application is filed seeking the following reliefs:

- (1) Quash Annexure A-6

(2) Declare that applicant is entitled to get pension by taking into consideration the total service rendered by him under the respondents.

(3) Issue appropriate order or direction to grant pension and pensionary benefits to the applicant within a reasonable time to the applicant.

(4) to direct the respondents to refund Rs. 2,29/- withheld from DCRG to the applicant within a reasonable time with interest @ 6% per annum till the date of payment

(5) Each Other reliefs as may be prayed for and as the Court may deem fit and necessary in the interest of Justice to the applicant.

2 The applicant, a Postman working under the Senior Superintendent of Post Offices, Kollam, was compulsorily retired from service by order dated 2.11.1999. The Appeal preferred against the said order was rejected by the Appellate Authority by order dated 31.1.2000. The applicant moved this Tribunal by O.A. 644/2000 and the OA was dismissed by order dated 4.10.2001. He filed OP No. 19594/2002 before the Hon'ble High Court of Kerala which was also dismissed by the Division Bench. Thus, the order of compulsory retirement has become final. The respondents thereafter sanctioned an amount of Rs. 16,066/- towards DCRG withholding an amount of Rs. 2,129/. He had also received the GPF amount and Group Insurance payment. The applicant has submitted a Revision petition stating that since he was compulsorily retired from service he is entitled to get pension as he has put in 22½ years of service. The Revision Petition was rejected by Annexure A-6 order stating that the applicant has rendered only 8 years and 6 months as Postman which

does not entitle him to receive pension. The order inter alia rejected the plea of the applicant for reduction of the punishment of compulsory retirement holding that the punishment imposed on the petitioner was not found to be disproportionate to the gravity of the offence committed. In this Original Application the prayer is confined to the claim for pension on the ground that he has put in 22 1/2 years of service and that the respondents cannot overlook the total service and deny pension. The basis of the applicant's claim is that he had put in 14 years as E.D.Agent and 8 1/2 years as regular Postman and that his appointment as Postman was on absorption from the post of EDDA on a regular basis and the respondents are bound to give weightage for that period since as per the Department of Personnel and A.R. letter No. 3(20)Pan(A)/79 dated 31.3.1982 even temporary service rendered is to be counted for pension.

3 The respondents in the reply statement have confirmed that the averments of the applicant regarding the disciplinary proceedings are factually correct. Owing to the detection of a money order fraud, the applicant was awarded with the penalty of compulsory retirement which has been confirmed and has become final after the dismissal of OP filed by the applicant by the Hon'ble High Court of Kerala. But they have stated that he is not entitled to pension as according to the rules he has not completed the qualifying service of 10 years in the cadre of Postman. There is no provision in the Departmental Rule to count EDA service as qualifying service for the

purpose of grant of pension, and hence the applicant's claims are not maintainable.

4 The applicant has filed rejoinder reiterating his contention that he has put in 22 ½ years of continuous service without any break and it is highly unjustified for the respondents to reject the claim. He also stated that an amount of Rs. 2129/- which was withheld from the DCRG has been released by the respondents on 18.6.2002 and he is entitled to get interest for the delayed payment.

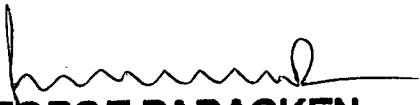
5 Additional reply has been filed by the respondents. They have enclosed copy of the judgment in O.A.1033/PB/2003 of the Chandigarh Bench of the Tribunal relying on the Full Bench decision on the same issue whether the services rendered in the post of an Extra Departmental Agents even if it is followed by appointment to Group-D post is to be counted as qualifying service for pension and it was held that the service rendered as EDBPM even if followed by regular appointment as Group-D cannot be reckoned as qualifying service for pension. The respondents therefore expressed their inability to consider the request of the applicant for calculation of his retirement benefits taking into account the service rendered by him as EDA.

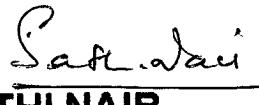
6 We have heard Ms Sonia for the applicant and Mr. Rajeev for the SCGSC. During the pendency of the O.A the applicant expired

and the wife of the applicant was substituted as applicant.

7 The short question that arises for consideration is whether the original applicant is eligible for grant of pension. Since he was compulsorily retired, he is eligible for grant of pension if he has put in the minimum period of qualifying service. In the case of the applicant he should have put in a minimum of 10 years of service to qualify for pension in terms of extant rules. The applicant has only 8 1/2 years of regular service as Postman. The claim of the applicant is that his previous service in the Department as an EDDA for 14 years should have been taken into account for computing the qualifying service which would make him eligible for pension. It is clear that the extant rules do not have any provision to count the previous service as qualifying service even if it is followed by regular service. This issue has been settled by the decision of the Full Bench referred to by the respondents and relied upon by the Chandigarh Bench of the Tribunal in O.A. 1033/PB/2003 dated 26.5.2005. Therefore we find that the prayer of the applicant has no merit either on facts or in law and hence the O.A. is dismissed. No costs.

Dated 17.11.2006


GEORGE PARACKEN
JUDICIAL MEMBER


SATHI NAIR
VICE CHAIRMAN

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