

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 28 of 1999

Monday, this the 18th day of December, 2000

CORAM

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER
HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

1. E.V. Ittan Pillai, S/o. Ittan Varkey),
[Retired Sub Divisional Engineer,
Office of the General Manager,
Telecom District, Kannur], residing at
Ethapadath House, Kaninadu-682310,
Ernakulam District, Kerala.Applicant

[By Advocate Mr. M.R. Rajendran Nair]

Versus

1. The Chairman, Telecom Commission,
Sanchar Bhavan, New Delhi.
2. The General Manager,
Telecommunications District,
Kannur-670002
3. The Chief General Manager,
Telecommunications, Kerala Circle,
Trivandrum-33
4. Mr. M.P. Rajan, Divisional Engineer,
Telecom, Kalpetta.
5. Union of India, represented by Secretary,
Government of India, Ministry of
Communications, New Delhi.Respondents

[By Advocate Mr. R. Madanan Pillai, ACGSC (for R1-R3 & R5)]

The application having been heard on 18th of December, 2000,
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

The applicant seeks the following reliefs:-

"[i] The applicant having given proper notice Annexure A5 dated 15-7-96 to the proper authority 1st respondent for voluntary retirement from service under the relevant rules as per direction in Annexure A3 and A4 of the

2nd respondent, had retired legally with effect from 15/16-10-96. It is prayed that this be upheld. Therefore, he be ordered to be paid pension with effect from 15/16-10-96. And also retirement benefits such as gratuity, GPF etc. etc. The contention of the 3rd respondent in Annexure A1 dated 23-9-98 that the applicant is still in service be quashed. And the direction of the 2nd respondent to the applicant in Annexure A2 dated 30-10-96 to rejoin duty be quashed;

- [iii] The applicant has been paid nothing since 1-2-96 even though amounts are due to him in respect of period prior to retirement, and even though he has become eligible for pension with effect from 15/16-10-96. These may be ordered to be paid. Of the period prior to retirement six items of money due to the applicant from the Department had been pointed out to the 3rd respondent Chief General Manager. On which he had replied in his letter No. VIG/2-55/97 dated 6-4-1998 that "your request for settling T.A. claim, pay and allowances, will be considered by the General Manager Telecom District Cannanore". But no payment has been made so far inspite of the applicant's request to the General Manager Telecom, Cannanore (2nd respondent) by registered letter dated 31-5-1998. These may be ordered to be paid;
- [iii] Departmental proceedings under CCS(CCA) Rules, 1965 instituted on 7-11-97 after retirement on 15/16-10-1996 is irregular. This should be cancelled;
- [iv] Grant such other reliefs as may be prayed for and the Tribunal may deem fit to grant; and
- [v] Grant the cost of this Original Application."

2. The applicant says that he is a retired Sub Divisional Engineer in the Telecommunications Department. He voluntarily retired from service with effect from 15/16-10-1996. A5 is the notice for voluntary retirement. A1 dated 23-9-1998 is issued to the applicant stating that his voluntary retirement request has not been accepted, that he was not attending the disciplinary proceedings initiated against him and that his request for assistance of a legal practitioner cannot be accepted. A2 says that the applicant's request for voluntary retirement has not been accepted. He has got a right to seek

voluntary retirement. Having retired on 15/16-10-1996 he is eligible for pension and other benefits. No disciplinary proceedings were initiated against him while he was in service.

3. Respondents 1 to 3 and 5 contend that the applicant is not retired from service. He has not voluntarily retired with effect from 15-10-1996. He had been continuously on leave from 4-3-1996 to 30-6-1997. He resumed duty on 1-7-1997. He applied for half pay leave for 31 days, as per R1(a). Similar applications submitted by him are R1(b) to R1(i).

4. As per Rule 10 of Central Administrative Tribunal (Procedure) Rules, an application shall be based upon a single cause of action and may seek one or more reliefs provided they are consequential to one another. Prayers [i], [iii] and [iii] are distinct and arising out of separate causes of action. The reliefs sought are not consequential to one another. That being so, on that ground alone this Original Application is liable to be dismissed.

5. A5, according to the applicant, is the request made by him for voluntary retirement. It says that:

"I request that I may kindly be allowed to retire from service after the expiry of my eligible leave under LPR."

It cannot be in this fashion. A5 can never be said to be a proper request for voluntary retirement.

6. A5 is dated 15-7-1996. If the three months' period is to be taken from the date of A5 as the date on which the applicant is entitled to retire voluntarily, his voluntary

retirement is to take effect from 15/16th of October, 1996. In the reply statement it is specifically stated that the applicant resumed his duty on 1-7-1997 at the office of the General Manager, Telecom District, Cannanore. No rejoinder is filed denying the same. From R1(a) it is seen that the applicant applied for 31 days Half Pay Leave with effect from 1-10-1996. If the applicant's intention was to retire voluntarily with effect from 15/16-10-1996, there would have been no necessity to apply for 31 days Half Pay Leave with effect from 1-10-1996 as per R1(a) dated 1-10-1996. R1(b) is another leave application dated 1-11-1996 for 30 days Half Pay Leave with effect from 1-11-1996. R1(c) is another leave application for 90 days Half Pay Leave with effect from 1-12-1996. R1(d) is still another leave application for 92 days Earned Leave with effect from 1-3-1997. It is dated 1-3-1998. As per R1(e) dated 29-5-1997, the applicant has applied for 45 days Earned Leave with effect from 1-6-1997. As per R1(f), he has sought 3 days Casual Leave with effect from 2-7-1997. R1(f) is dated 1-7-1997. Again as per R1(g), he has applied for 83 days Half Pay Leave with effect from 10-7-1997. As per R1(h), he sought 180 days leave on Medical Certificate with effect from 1-10-1997.

7. R3(a) dated 27-11-1996 submitted by the applicant to the Deputy General Manager, Kannur says that SR-1 for 90 days with effect from 1-12-1996 is enclosed. That means he was intending to avail 90 days leave with effect from 1-12-1996. R3(b) dated 1-7-1997 submitted by the applicant to the Assistant General Manager says that he is reporting for duty on the forenoon of 1-7-1997. R3(c) shows that he has taken charge on 1-7-1997. All these would go to show conclusively that the applicant is

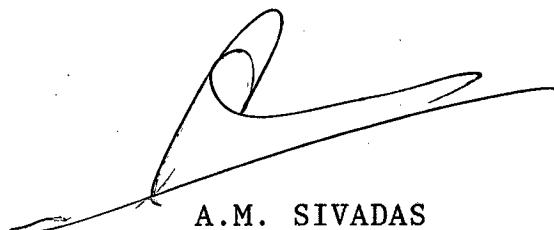
continuing in service. That being the position, the stand of the respondents that the applicant is not yet retired from service is only to be upheld.

8. Accordingly, the Original Application is dismissed. No costs.

Monday, this the 18th day of December, 2000



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.M. SIVADAS
JUDICIAL MEMBER

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List of Annexure referred to in this order:

1. A1 True copy of the letter No. VIG/2-55/97 dated Trivandrum-33 the 23-9-1998 issued by the 3rd respondent to the applicant.
2. A2 True copy of the letter No. ST/37/G0s/Pt/20 dated 30-10-1996 issued by the 2nd respondent to the applicant.
3. A3 True copy of the letter No. ST/37/G0s/Pt/7 dated 16-4-1996 issued by the Sub Divisional Engineer (Admn), Office of the 2nd respondent to the applicant.
4. A4 True copy of the Telegram No. XXT/1530/9 dated 9-6-96 issued by the 2nd respondent to the applicant.
5. A5 True copy of the notice dated 15-7-96 submitted by the applicant to the 1st respondent.
6. R1(a)
to
R1(i) True copies of leave applications submitted by the applicant from 1-10-96 to 1-4-98.
7. R3(a)
to
R3(c) True copies of correspondence made by the applicant to the Department dated 27-11-96 onwards.