

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.302/2007

Friday, this the 11th day of May 2007.

CORAM:

HON'BLE MR. JUSTICE M.RAMACHANDRAN , VICE CHAIRMAN

N.Vijayan, Tradesman 'E',
Transport Maintenance Unit,
Bhabha Atomic Research Centre (Atomic Energy),
Trombay, Mumbai -400 083 (Not in service),
residing at Punnavila Veedu
Mannoorbhagam. Alamcode P.O.,
Chirayinkeezh Taluk,
Thiruvananthapuram District.

Applicant

(By Advocate Mr.Vadakara VVN Menon)

Vs.

1. The Controller,
Bhabha Atomic Research Centre,
Trombay,
Mumbai -400 085.
2. The Head of Accounts Division,
Bhabha Atomic Research Centre,
Trombay,
Mumbai -400 085.
3. The Head of Personnel Division,
Bhabha Atomic Research Centre,
Trombay,
Mumbai -400 085.
4. The Establishment Officer,
Bhabha Atomic Research Centre,
Trombay,
Mumbai -400 085.
5. Union of India, represented by
the Ministry of Atomic Energy.
New Delhi.

Respondents

(By Advocate Mr.P.J.Philip ACGSC)

The application having been heard on 11.5.2007, the Tribunal on the same day delivered the following:

ORDER**HON'BLE MR. JUSTICE M.RAMACHANDRAN, VICE CHAIRMAN**

This is the second round of litigation. Previously the applicant had filed O.A.891/05 which was finally disposed of by order dated 15.12.2005 (Annexure A-22) and the respondent Department, Baba Atomic Research Centre had been directed to consider the representation(Annexure -12) submitted by the applicant which was pending with them and to pass appropriate orders within a specified time. The resultant order is Annexure A-25 dated 20.2.2.007 which is under challenge in this O.A. Applicant contents that the decision taken consequent to O.A.891/05 is erroneous and without application of mind.

2. Mr.P.J. Philip, ACGSC appears for the respondents. Heard the counsel for respondents in this O.A. Learned counsel for respondents submits that the matter had been gone into details after O.A.891/05 and respondents have arrived at a conclusion that the applicant was not eligible to get any benefits.

3. The applicant had served the respondent department for about 17 years commencing from 23.3.1961 upto 3.10.977. In exercise of the powers conferred under clause (b) of sub-rule (2) of rule 12 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965, the applicant was removed from service w.e.f. 29.6.77, vide Annexure A-15 order dated 29.6.1977, issued by the competent authority for unexplained absence. Thereafter, on an application filed by the applicant, the Provident Fund dues with interest had been paid over to him vide Annexure A-19 order dated 18.11.1978. Evidently, the applicant had remained out of

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service almost for 20 years. An application dated 20.2.1999 addressed to the Controller, BARC was made by him thereafter, requesting for pensionary benefits, which was rejected by the respondents vide (Annexure A-17) order dated 6.9.1999 stating that, since the applicant had been removed from service w.e.f. 29.6.1977, he was not entitled to any service benefits including pension. He had been advised that, consequent to his removal of service no benefits would have been liable or due. Further, he had opted for Contributory Provident Fund as per rules, which automatically made him ineligible for entitlement of pension.

4. The subsequent representation dated 28.10.1999 in response to the letter dated 6.9.1999 was also rejected vide Annexure A-18 order dated 25.1.2000, whereupon, after about four years he had approached this Tribunal seeking redressal of his grievance and the matter was directed to be looked into afresh. The present order (Annexure A-25) gives all the relevant details which have been shown as to how the applicant's claim would not have been tenable with the facts and materials. The applicant averred in the O.A. that he was on prolonged treatment from 1977 to October 1998 for loss of memory and in support of this he has produced a Certificate dated 21.2.2006 (Annexure A-7) issued by the Chief Physician, G.Somanathan Vaidyar (RIMP) of Durga Ayurveda Pharmacy, Attingal. This is per-se unbelievable, for the applicant has produced the relevant extracts of the Passport which was issued to him on 18.10.1980. It shows that he had possessed the Passport and it was renewed upto to 17.10.1990.

5. Although there is a contention that the applicant had sent several representations but no reply was received by him, it appears to be totally

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incorrect, because of various replies vide letters dated 4.1.1999, 6.9.1999 and 25.1.2000 given to him informing him that he was not eligible to receive pension and other retirement benefits, due to removal from Government Service, as a measure of penalty. To prove their contention, that the proceedings were taken behind his back, the applicant was not able to produce any evidence. Above all, Personal File of Government servants need be preserved only for 3 years and thereafter all the records will be destroyed. It is evident that the applicant has been subjected to the disciplinary proceedings as gathered from available records. He has not alleged any malafides against the authorities and his belated application, could not have been possible to be entertained now, although the Tribunal had on previous occasion required the respondents to look into the matter afresh. There is no illegality in Annexure A-25. They have done their duty as expected by them by passing the present order. I am not inclined to give any direction. and the application is obviously misconceived. The O.A. is dismissed in limine.

Dated the 11 th May, 2007.



M.RAMACHANDRAN(J)
VICE CHAIRMAN