

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

TUESDAY, THIS THE THIRD DAY OF AUGUST, 1999.

O.A. 310/98

C O R A M:

HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

P.K. Velayudhan Nair
Telecom Office Assistant,
Office of the General Manager Telecom,
Thiruvalla.

Applicant

By Advocate Mr. Rojo J. Thuruthipara

Vs.

1. Union of India represented by its Secretary to Department of Telecommunications, New Delhi.
2. Chief General Manager, Telecom Thiruvananthapuram.
3. General Manager, Telecom Thiruvalla. ..Respondents

By Advocate Mr. Thomas Mathew Nellimoottil

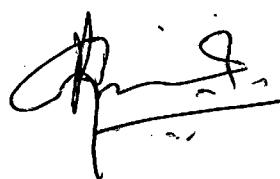
The application having been heard on 14.7.99, the Tribunal delivered the following on 3.8.99.

O R D E R

HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

The applicant who was working as Telecom Office Assistant in the office of the General Manager, Telecom, Thiruvalla and who was due to retire on 28.2.98 had filed this O.A. with a prayer for a declaration that he was entitled to service pension and for a direction to the respondents to grant and disburse pension to him w.e.f. 1.3.98.

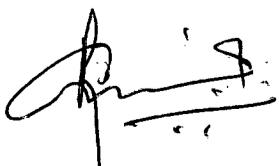
2. The applicant stated in the O.A. that he was an ex-serviceman having military service from 16.5.62 to



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4.11.82 and subsequent to his discharge, he was recruited as Short Duty Telephone Operator for inducting in the Reserved Trained Pool (RTP for short) on 19.5.84. According to the applicant after completion of three months training, he was continued to be engaged as RTP Trunk Telephone Operator under the respondents from 1.4.85 till November, 1988 when he was sent for training as Telecom Office Assistant (TOA) and regularised as TOA w.e.f 9.2.89 vide Annexure A3. Applicant stated that he represented to the second respondent vide his representation dated 8.11.97 (A4). According to him in terms of the decision of this Tribunal in O.A. 814/90 and a number of similar other cases which held that on completion of one year of RTP service, such employees should be deemed to have attained temporary status and hence half the period after attaining temporary status should be reckoned as qualifying service for pension, would apply to his case and thus half of the period from 19.8.85 to 9.11.88 i.e. 2 years and 3 months should be reckoned as qualifying service for pension in his case. He therefore, sought a declaration that the respondents were liable to grant pension to the applicant as he would have a total of 11 years 7 months of qualifying service against the minimum of 10 years required for pension.

3. The respondents filed reply statement and resisted the claim of the applicant. It was submitted that the applicant had retired on superannuation on 28.2.98 and had not put in the minimum qualifying service of ten years for earning pension and so was not eligible for pension and in lieu of pension he was sanctioned service gratuity of Rs. 39,824/- and a retirement gratuity of Rs. 19,912/-. They submitted that the applicant was originally recruited as RTP Telephone Operator and such Operators were absorbed in regular vacancy depending on availability of sanctioned



posts. They submitted that the judgment of the Tribunal in O.A. 814/90 and other connected cases was taken up in appeal before the Hon'ble Supreme Court and the Hon'ble Supreme Court set aside the order of the Tribunal in Union of India and Others Vs. K.N. Sivadas and Others (1997 7 SCC 30) and thus the services put in by the applicant prior to his appointment in the regular cadre of Telecom Operator i.e. in the capacity of RTP employee, could not be counted for any purpose including pensionary benefits. They submitted that the applicant was not entitled to any benefits as prayed for in the O.A. in the light of the judgment of the Hon'ble Supreme Court and that his retirement benefits were regulated as per the rules in force and therefore prayed that the O.A. may be dismissed.

4. The applicant filed rejoinder in which he reiterated the claim in the O.A.

5. Heard learned counsel. I have given careful consideration to the submissions made by the learned counsel for the parties and the rival pleadings and have also perused the records.

The applicant has relied on the judgment of this Tribunal rendered in O.A. 814/90 and other connected cases for the reliefs claimed. The Hon'ble Supreme Court set aside the judgment of this Tribunal in Union of India and Others Vs. K.N. Sivadas and Others (1997 7 SCC 30), dismissed the connected O.As filed before the Tribunal and held that RTP employees could not be equated with casual labourers. Therefore, his plea that half the period of service rendered by him after one year of his engagement as RTP employee till his regular appointment should be treated as qualifying service fails. His qualifying service after his regular appointment by his own averment in the O.A. is less



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than the minimum required for grant of pension. Therefore, the applicant is not entitled for the reliefs sought for in this Original Application.

6. In view of the foregoing, this O.A. fails and is dismissed with no order as to costs.

Dated the 3rd August, 1999.


3/8/99
G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER

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List of Annexures referred in this order

Annexure A4 - True copy of the representation dated 8.10.97 submitted by the applicant to the second respondent.

Annexure A3-Copy of the memo of appointment No.E 12/Rectt/83 /III/54 dated 6.2.89 issued by the Telecom District Engineer, Aleppey.