

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Original Application No. 313 of 2013

Wednesday, this the 11th day of June, 2014

CORAM:

Hon'ble Mr. George Paracken, Judicial Member

1. Lakshmikutty
W/o.Late K.Krishnan Nair
Residing at Brindhavan
TC-7/1899-1
Srichitanagar
Pangod, Thirumala P.O
Trivandrum District
2. Nandha K.L
W/o.T.Ravikumar
Residing at Brindhavan
TC-7/1899-1
Srichitanagar
Pangod, Thirumala P.O
Trivandrum District
3. Brindha K.L
W/o.A Sureshbabu
Residing at Brindhavan
TC-7/1899-1
Srichitanagar
Pangod, Thirumala P.O
Trivandrum District
4. Ramesh K.L
S/o.(Late) K.Krishnan Nair
Residing at Brindhavan
TC-7/1899-1
Srichitanagar
Pangod, Thirumala P.O
Trivandrum District

- Applicants

(By Advocate Mr.G.D.Panicker)

Versus

1. The Pay & Accounts Officer, Ministry of
Urban Development, Pay and Account
Office CPWD (SZ)
E-2-C-Wing, Rajaji Bhavan
Basanth Nagar, Chennai – 600 001

8

2. Assistant General Manager
S.B.T, Main Branch
Statue, Thiruvananthapuram
Pin - 695 001

3. Senior Manager, SBT,
Treasury Branch
Thiruvananthapuram
Pin - 695 001

- Respondents

(By Advocate Mr.S jamal, ACGSC)

This application having been heard on 11.06.2014, the Tribunal on the same day delivered the following:

ORDER

This Original Application has been originally filed by Shri.K.Krishnan Nair, a pensioner, seeking the following reliefs:

" (i) The Honourable Tribunal may be pleased to set aside Annexure A1 and A3 issued by the 1st respondent to the extent that they denied the actual pension to the applicant

(ii) Direct the respondents to consider the case of the applicant afresh for granting actual pension and disburse the arrears to the applicant with reasonable interest.

(iii) Direct the respondents to stop further recovery made on the pension of the applicant "

2. Annexure A-1 is the order dated 24.01.2011 issued by the Central Pension Accounting Office to the State Bank of Travancore with copy to Shri.K.Krishnan Nair revising his pension. The relevant part of the said order reads as under:-

" Sub: Revision of pension of Mr.K.Krishnan Nair, Holder of PPO Number Number: 439510800394 at Branch, Vazhuthacaud (Thiruvananthapuram), Thiruvananthapuram, Kerala, Account Number: AC 57022748313.

Sir/Madam,

An amendment letter No.2469-71 Dt: 06/Jan/2011 in respect of Ppo mentioned above is forwarded herewith in original. The amount mentioned in this SSA may be verified from original documents for payments and modifications may be carried out in both the halves of the PPO arranged as under:

Revised Pension (Per month)

1. REVISED BASIC PENSION: Rs.2033/- w.e.f 05/DEC/2006
(Rupees two thousand thirty three only)
2. REVISED PENSION COMMUTED: NO CHANGE
3. REVISED REDUCED PENSION: Rs.2033/- w.e.f: 05/DEC/2006
(Rupees two thousand thirty three only)
4. AMOUNT OF DIFFERENTIAL COMMUTATION PAYABLE: NO CHANGE
5. ADDITIONAL DEATH/RETIREMENT GRATUITY PAYABLE: NO CHANGE
6. REVISED FAMILY PENSION :
AT ENHANCED RATE: NO CHANGE FROM: TO:
AT NORMAL RATE: NO CHANGE FROM: TO: TILL DEATH/REMARRIAGE
7. ABOVE RATE OF PENSION @ RS.2033 IS 1/3RD RESTORED PENSION OF FULL BASIC PENSION RS.3500/- FOR MORE DETAILS PLEASE SEE THE PAO'S AUTHORITY"

Annexure A-3 is an earlier order from the Central Pension Accounting Office to the State Bank of Travancore dated 04.09.2008 sanctioning the basic pension of Rs.1848/- p.m w.e.f 05.12.2006. The relevant part of the said order is also reproduced as under:

" You are requested to make payment as per this authorisation below, (Details are given in enclosed P..P.O) to Mr.K.Krishnan Nair, holder of P.P.O No: 439510800396, Category of Pension: Others , Paying Branch: Vazhuthacaud Branch, Trivandrum.

P.P.O Issuing authority :PAO (South Zone) CPWD, Chennai
Basic Pension P.M : Rs.1848/- Date of Commencement : 05/12/2006

(Rupees One thousand eight hundred forty eight)

Residual Pension P.M: NIL Date of Commencement of Residual Pension:

Family pension at Enhanced Rate: Nil From: To:

Family Pension at enhanced rate: Nil From: To:

Commututed value to be paid by bank: NIL "

3. During the pendency of this Original Application, Shri.K.Krishnan Nair unfortunately died on 29.7.2013 and thereafter, his wife Mrs.Lakshmikutty and three children who are his legal heirs have impleaded themselves as the applicants therein.

4. The facts, as stated by the learned counsel for the applicant, are that Shri.K.Krishnan Nair (Late) retired from service on 30.06.1990 and, as per the prevalent rules, he got his entire pension amounting to Rs.66,780/- commuted on 31.2.1991. However, according to change in the rules, pension was restored after expiry of 15 years from the date of retirement and Shri.K.Krishnan Nair(Late) was again became entitled for pension with effect from 01.07.2005. However, the respondents did not restore his pension from that date. On the other hand, the Central Pension Accounting Office, Govt. of India Trikoot II, Bhikaji Cama Place, New Delhi vide the impugned order dated 24.1.11 forwarded an amendment letter No.2469-71 dated 06.1.2011 in respect of PPO of Shri.K.Krishnan Nair to State Bank of Travancore, Treasury Branch, M.G Road, Thiruvananthapuram, Pin No.695001, Kerala authorizing to draw the revised basic pension fixed at Rs.2033/- with effect from 5.12.2006. A copy of the said letter was also sent to Shri K.Krishnan Nair. Thereafter, Shri.K.Krishnan Nair received pension as well as the monthly pension till his death. However, according to learned counsel for the applicant, after the death of Shri.K.Krishnan Nair, his wife is not getting any family pension in spite of her repeated requests. He has also submitted that an amount of Rs.1467/- has been deducted from the pension paid to Shri.K.Krishnan Nair without any notice to him.

5. The respondents have filed reply stating that Shri.K.Krishnan Nair initially joined as Kalasi in the Department of CPWD, Govt of India in the year 1965. He got his promotion there as Assistant Wireman and worked at various places till he got absorbed in National Airport Authority of India with effect from

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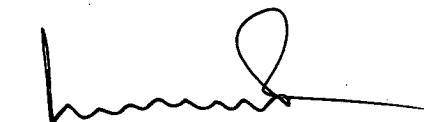
01.07.1990. Thereafter, he got his entire pension (100%)commuted and the commuted value has been paid to him in full. Later on, on the basis of a judgment of the Supreme Court of India , the respondents have restored the 1/3 pension of Shri.K.Krishnan Nair vide order dated 30.09.1996. Accordingly, 1/3 of the commuted value was sanctioned to him with effect from 5.12.2006 and he was drawing the same from State Bank of India, Vazhuthakkad Branch, Trivandrum, Kerala. Further, after accepting the recommendations of the 6th Central Pay Commission, the Government of India issued O.M dated 1.9.2008, applicable to all pensioners/family pensioners who were drawing consolidated pension/family pension with effect from 1.1.2006 under the Central Civil Service (Pension) Rules 1972. However, the said consolidation of the pension/family pension was not applicable to the government servants who have drawn one time lumpsum terminal benefits. They were entitled to the restoration of only 1/3 portion of pension as in the case of Shri.K.Krishnan Nair(Late). Accordingly he was entitled for Rs.2033/- with DR as the revised amount of restored pension with effect from 5.12.2006. But the Bank inadvertently paid him Rs.3500/- and the excess amount of Rs.1467/- has been recovered. They further stated that the 1/3 commuted value of pension was admissible from the date of completion of 15 years from the date of payment of commuted value i.e' 5.12.2006 and not from the date of release from Government service on 30.06.1990 as the pension for the period from 1.7.1990 till the date of payment of 100% commuted value of pension has already been paid to Shri.K.Krishnan Nair.

6. I have heard the learned counsel for the parties. It is seen that the factual and legal position of the case has been duly explained by the respondents in their reply statement. As submitted by them, Shri.K.krishnan Nair was entitled for his 1/3 restored pension only with effect from 5.12.2006 as the 1/3 commuted volume of pension which has been restored was admissible from the date of completion of 15 years from the date of payment of commuted value and not

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from the date of release from the government service ie; 30.06.1990. I also do not find anything wrong on the part of the respondents in adjusting Rs.1467/- from the arrears of pension paid to Shri.k.krishnan Nair as he was wrongly paid Rs.3500/- instead of Rs.2033/- which was admissible to him.

7. However, after Shri.k.krishnan Nair died on 29.7.2013 and the applicant No.1 who is wife has been requesting the respondents to sanction the family pension, there is no reason for them to deny the same to her for all these months. It is a well settled principle that pension/family pension is not a bouny of the government and it is the right of the pensioner/dependents to receive it. I, therefore, dispose of this Original Application with a direction to the respondents to ensure that the admissible family pension with up-to-date arrears is released to the applicant Smt.Lakshmikutty, after due verification, at the earliest but in any case within a period of 2 months from the date of receipt of a copy of this order. The applicant is also entitled for interest @ 9% per month for the arrears of family pension till the date of payment. If the applicants are in any way still aggrieved in the matter, they are at liberty to make a representation to the respondents and on receipt of the same they shall consider the same and dispose it of by way of a reasoned and speaking order. With the aforesaid directions, this Original Application is disposed of. There shall be no order as to costs.



(GEORGE PARACKEN)
JUDICIAL MEMBER

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