

24
CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A No. 325/ 2008

Thursday, this the 23rd day of October, 2008.

CORAM

HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER

HON'BLE DR K.S.SUGATHAN, ADMINISTRATIVE MEMBER

M.P.Sivasankara Pillai,
Section Officer (Retd.)
Sopanam, Rose Gardens No.47,
Pongumoodu, Ulloor,
M.C.P.O., Thiruvananthapuram-11.Applicant

(By Advocate Mr Vishnu S Chempazhanthiyil)

v.

1. The Regional Provident Fund Commissioner,
Employees Provident Fund Organisation,
Regional Office, Pattom,
Thiruvananthapuram.
2. The Central Provident Fund Commissioner,
Employees Provident Fund Organisation,
Mayoor Bhavan, Connaught Circle,
New Delhi-1.
3. The Secretary,
Ministry of Labour & Employment,
Shram Manthralaya,
New Delhi.Respondents

(By Advocate Mr. NN Sugunapalan Senior for R.1 & 2)

(By Advocate Mr TPM Ibrahim Khan, SCGSC for R.3)

This application having been finally heard on 26.9.2008, the Tribunal on 23.10.2008 delivered the following:

ORDER

HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER

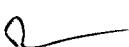
The grievances which have been sought to be redressed by the applicant



are two fold, viz, (i) his retiral benefits including commuted value of pension with interest with effect from 11.1.2008 has not been disbursed and (ii) suspension period from 29.1.2003 to 31.7.2004 has not been reguarised.

2. The facts of the case are as follows: The applicant while working as a Section Supervisor under the 1st respondent, the Regional Provident Fund Commissioner, Thiruvananthapuram, was served with two memoranda dated 11.1.2000 and 12.1.2000 proposing enquiry against him under Rule 10 of the EPF Staff (CC&A) Rules, 1971. Later on, an enquiry was initiated against him for certain grave misconduct. Meanwhile, he was arrested and remanded to judicial custody till 6.10.2003 for his suspected involvement as Accused No.3 in a murder case registered by the Changanachery Police as Crime No.712/2003 under Section 120(B), 109, 201, 302 and 34 IPC. Consequently, he was placed under suspension by the 1st respondent vide Annexure A-1 dated 24.9.2003 and later on retired while in suspension itself on 31.7.2004 on superannuation (Annexure A-2). He was, therefore, sanctioned provisional pension vide Annexure A-3 Office Order dated 29.7.2004. Though he was exonerated vide order dated 30.7.2003 in the disciplinary case initiated against him vide Memo dated 12.1.2000, the disciplinary proceedings initiated against him vide Memorandum dated 11.1.2000 continued beyond his date of retirement and it ended up in the imposition of penalty of cut of 1% in pension payable to him for a period of 2 years made vide order dated 13.4.2006 (Annexure A-4).

3. The criminal case charged against the applicant by the Changanachery Police came up before the Court of Sessions, Kottayam Division as Session Case No.56/2007 and it ended up in his acquittal on 28.11.2007 for want of sufficient evidence. Thereafter, he approached the 1st respondent with Annexure A-5 representation dated 18.12.2007 requesting for disbursement of all



retirement benefits admissible to him and to grant promotion to the post of EO/AAO from the due date. It was followed up with another representation dated 11.1.2008 producing therewith a certified copy of the judgment dated 28.11.2007 in the aforesaid Sessions Case No.56/2007.

4. According to the respondents, on receipt of the aforesaid judgment, they have taken immediate necessary actions by approaching the Superintendent of Police, Kottayam and the Secretary to Government of Kerala, Home Department to confirm as to whether the Government has proposed to go in for appeal against the judgment of the Court of Sessions. They have also submitted that they have already sought vigilance clearance from the Zonal Vigilance Directorate, Hyderabad. The applicant was also kept informed about the various developments. According to them, they would redress the grievances of the applicant as soon as confirmation is received from the Government.

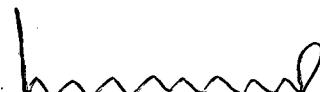
5. We have heard the learned counsel for the parties. It is true that the suspension was necessitated by the arrest and detention of the applicant in judicial custody on 21.9.2003. Now the criminal case pending against him before the Sessions Court, Kottayam has ended up in his acquittal on 28.11.2007; the departmental proceedings initiated against him vide memo dated 12.1.2000 was also ended up in his exoneration and the currency of the period of penalty of 1% cut in his pension imposed upon him vide Annexure A-4 order dated 13.4.2006 for a period of 2 years is over. According to the respondents, the impediments before them to redress the grievances of the applicant is that they have not so far received any confirmation from the State Government regarding filing of any appeal against the order of the Sessions Court judgment dated 28.11.2007 and vigilance clearance from the Zonal Vigilance Directorate, Hyderabad. According to the respondents, they have been following them up with the authorities



concerned. In our considered opinion, the applicant cannot be made to wait indefinitely for settling his terminal benefits. It is seen that the applicant has retired from service way back on 31.7.2004. It is unbelievable that the respondents could not obtain the vigilance clearance from the Zonal Vigilance Director, Hyderabad for the last over 4 years. Similarly, the applicant was acquitted in the criminal case on 28.11.2007. According to the respondents, the State Government has not even taken a decision as to whether an appeal against the Sessions Court judgment is to be filed or not for the last one year. Such unreasonable delay in taking decision to the disadvantage of the applicant cannot be accepted. In the above facts and circumstances of the case, the O.A is allowed. Respondents are directed to take a decision regarding regularization of the period of suspension of the applicant from 29.1.2003 to 31.7.2004 in terms of the provisions contained in Rule 69 of the CCS (Pension) Rules and FR 54(b)(1) and settle his withheld pensionary benefits including commutation of pension within a period of two months from the date of receipt of this order and convey the same to him. There shall be no order as to costs.



DR K.S. SUGATHAN
ADMINISTRATIVE MEMBER



GEORGE PARACKEN
JUDICIAL MEMBER

trs