

CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O.A. No. 382 of 1999.

Monday this the 13th day of December 1999.

CORAM:

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

K.U. Joseph, Aged 58,
S/o Kuttappan, residing at
Palathinkal House, Parippu,
Kottayam.

Applicant

Vs.

1. Union of India represented by
the Secretary To Government,
Ministry of Finance, Central
Secretariat (North Block),
New Delhi.

2. Controller of Defence Accounts
(Pension), Allahabad.

3. General Manager,
Telecommunication,
Kottayam.

Respondents

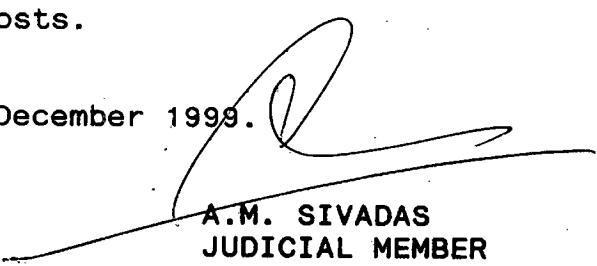
(By Advocate Ms. I. Sheela Devi, ACGSC)

O R D E R

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

None appears for the applicant. Original Application
is dismissed for default. No costs.

Dated the 13th day of December 1999.


A.M. SIVADAS
JUDICIAL MEMBER

rv

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 382 of 1999

Friday, this the 4th day of February, 2000

CORAM

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

1. K.U. Joseph,
S/o Kuttappan, residing at
Palathinkal House,
Parippu,
Kottayam. .. Applicant

By Advocate Mr. K. Jagadishchandran Nair

Vs.

1. Union of India represented by the
Secretary to Government,
Ministry of Finance,
Central Secretariat (North Block),
New Delhi.

2. Controller of Defence Accounts (Pension),
Allahabad.

3. General Manager,
Telecommunication,
Kottayam. .. Respondents

By Advocate Ms. I. Sheela Devi, ACGSC

The application having been heard on 4th February, 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 to declare that the amount of relief on
pension already paid to him is not liable to be returned and to
direct the respondents not to recover the amount of relief on pension
already paid to him and also to refund the amount already recovered
from him.

2. The applicant is an Ex-Serviceman-pensioner re-employed under
the 3rd respondent. He is aggrieved by the recovery of amount
already paid by way of relief on pension. Recovery from his pension

contd..2

has been effected even without notice to him.

3. Respondents say that no notice is necessary in this case since, *prima facie*, the applicant is not entitled to it. Whatever amount has been erroneously drawn by him, the respondents have every right to recover.

4. Though the respondents say that the amount has been erroneously drawn by the applicant, it is not a case of the applicant having erroneously drawn, but the respondents have erroneously paid to him. As far as the erroneous payment is concerned, it has been held by the Apex Court that it cannot be recovered unless the person who has received is responsible in any way for payment of the same. Respondents do not have a case that the applicant is in any way responsible for the erroneous payment.

5. Learned counsel appearing for the respondents drew my attention to the O.M. dated 2nd of June, 1999 issued by Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Pension and Pensioners Welfare. From the same it is seen that the stand of the respondents cannot be accepted that they are entitled to recover the amount from the applicant.

6. Accordingly, the Original Application is allowed, declaring that the amount of relief on pension already paid to the applicant is not liable to be recovered and directing the respondents not to recover the amount of relief on pension already paid to the applicant and to refund the amount already recovered from the applicant within two months from the date of receipt of a copy of this order. No costs.

Friday, this the 4th day of February, 2000

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A.M. SIVADAS
JUDICIAL MEMBER