

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.41/96

Monday, this the 22nd day of September, 1997.

C O R A M

HON'BLE SHRI PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER
HON'BLE SHRI AM SIVADAS, JUDICIAL MEMBER

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PM Pappachan, Staff Code No.24393,
Stores Officer II,
Indian Space Research Organisation,
Liquid Propulsion Research Centre,
Valiamala, Thiruvananthapuram--695 547.

....Applicant

vs

1. Union of India represented by
Secretary, Department of Space,
Antariksh Bhavan, New BEL Road,
Bangalore--560 054.
2. The Director,
Vikram Sarabhai Space Centre,
ISRO Post, Thiruvananthapuram--695 022.
3. State of Kerala represented by
the Chief Secretary to the Government of Kerala,
Secretariat, Thiruvananthapuram.

....Respondents

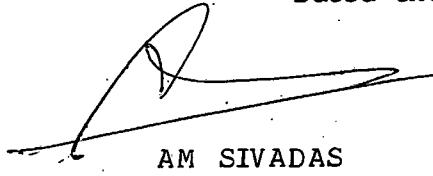
R.3 by Advocate Shri CA Joy, Government Pleader.

O R D E R

HON'BLE SHRI PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

Neither applicant nor his counsel is present. The application
is dismissed. No costs.

Dated the 22nd September, 1997.


AM SIVADAS
JUDICIAL MEMBER


PV VENKATAKRISHNAN
ADMINISTRATIVE MEMBER

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. 41/96

WEDNESDAY, THIS THE SEVENTH DAY OF JANUARY, 1998.

C O R A M:

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

HON'BLE MR. S.K. GHOSAL, ADMINISTRATIVE MEMBER

P.M. Pappachan
Staff Code No. 24393
Stores Officer-II
Indian Space Research Organisation,
Valiamala Liquid Propulsion Research Centre,
Thiruvananthapuram-695 547.Applicant

By Advocate Mr. N. Govindan Nair

Vs.

1. Union of India represented by
the Secretary, Department of Space,
Antariksh Bhavan, New B.E.L. Road,
Bangalore-560 054.
2. The Director,
Vikram Sarabhai Space Centre,
I.S.R.O.(Post),
Thiruvananthapuram-695 022.
3. State of Kerala represented by
the Chief Secretary to the Govt. of Kerala,
Secretariat, Thiruvananthapuram.Respondents

By Advocate Mr. C.N. Radhakrishnan for R 1 & 2

By Advocate Mr. C.A. Joy, GP for R3

The application having been heard on 9.12.97 the
Tribunal on 7.1.1998 delivered the following:

O R D E R

HON'BLE MR. S.K. GHOSAL, ADMINISTRATIVE MEMBER

The relevant facts of the case can be stated briefly as follows.

2. The applicant has been working as a Stores Officer in the Department of Space under the second respondent who is the Director, Vikram Sarabhai Space Centre, I.S.R.O. (Indian Space Research Organisation), Thiruvananthapuram.

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He joined that organisation, i.e., ISRO on 15.5.71. Immediately prior to his joining the ISRO, he was working as a UDC in the Bharat Heavy Electricals (India) Ltd., Tiruchy, (BHEL) for the period 15.7.63 to 10.5.71. That service in BHEL is admittedly a non-pensionable service. However, the applicant has been representing to the second respondent that his service as a Clerk in the Transport Department in the office of the Director of Transport under the Government of Kerala, Fort, Trivandrum, earlier i.e. from 2.3.59 to 12.7.63, which is a pensionable service being under a State Government, before he joined BHEL, should be counted for the purpose of pension when he retires from the present service under the second respondent.

3. He made a series of representations for the said purpose, i.e. for getting the period of service rendered by him under the Government of Kerala between 2.3.59 and 12.7.63 counted for the purpose of pension from his present employer, i.e., the Department of Space, Government of India. However, that Department finally turned down his request to that effect in their communication dated 16.6.95 at Annexure A3. The applicant is aggrieved by that order which he has impugned. He has sought the relief of squashing that order at A3 and of the issue of direction to that Department for treating his service under the Government of Kerala mentioned above as service qualifying for pension.

4. The case of the applicant is that it is permissible for the Department of Space, i.e. the respondents 1 & 2, to treat as the break in service, for the purpose of consideration of his request for pension, the period which he spent working as a UDC in the BHEL from 15.6.63 to

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10.5.71, condone that break and then give him the benefit of the policy enunciated by the respondent Department in the communication dated 22.12.75 at A4. Under that communication at A4 service rendered by employees in pensionable establishments under a State Government, who joined ISRO on foreign service followed by permanent appointment in ISRO without interruption or where interruption has been condoned under the rules, may be treated as qualifying service for the purpose of pension. The pension charges will be apportioned between the State and the Central Governments. The above position, it has been admitted by the parties before us, holds good even when a person joins the ISRO after resigning from the service of a State Government having applied with prior approval.

5. The circular at A4, we observe, indeed specifically incorporates this policy.

6. In order to reinforce his claim, the applicant has brought to our notice a few cases where such interruptions in service have been condoned by ISRO applying the above provisions. According to the applicant the same provisions enable the respondent Department to treat his request also favourably, giving him the benefit of condonation of the period of time that intervened between his service under the Government of Kerala and his present service under the respondent Department, i.e., ISRO.

7. The respondent Department has contested the reliefs sought by the applicant. According to the respondent Department, the applicant having resigned from the Government of Kerala nearly eight years before joining

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ISRO, and after having worked in BHEL for a long period from 15.7.63 to 10.5.71, cannot subsequently claim that in spite of this long break between 15.7.73 and 10.5.71, when he worked as a UDC in BHEL, his previous service as a Clerk from 2.3.59 to 12.7.63 in the office of the Director of Transport, Government of Kerala should be counted as qualifying service for the purpose of pension by the Department of Space where he joined admittedly only on 15.5.71. The respondent Department has essentially relied upon the same policy at A4 to corroborate their stand that such a treatment of the service under the Government of Kerala in an earlier period is not contemplated under that policy. The respondent Department in this connection, has drawn our attention to the other policy of the Government of India issued by the Department of Public Enterprises dated 9.1.86 at Annexure R1.

8. However, we observe that under Annexure R1 the cases of Central Government servants joining the public sector undertakings under the Central Government have been dealt with. The purpose for which this document has been pressed into service by the first and second respondents i.e. the Department of Space, is that even in such cases there is no automatic carryover of the services rendered by a Government of India servant for subsequent pensionary benefits when he joins permanently a public sector undertaking of the Government of India, under the latter organisation.

9. The third respondent, i.e., the Government of Kerala, has also opposed the reliefs prayed for by the applicant. According to the third respondent, the applicant is not entitled to these reliefs for the reason that he had resigned from the service of the Government of Kerala to

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better his career prospects and not in public interest and thus joined BHEL. Further, the service rendered by the applicant under the Government of Kerala cannot be counted for the purpose of pension, for which the Government of Kerala will have to bear the proportionate liability, under the policy governing such cases laid down by the Government of Kerala.

10. We have carefully considered the pleadings in this case and heard the arguments of the learned counsel appearing for the parties.

11. The crucial points involved in this case in our opinion, are (a) whether the applicant is legally entitled to get the service rendered by him in the Directorate of Transport, Government of Kerala in the period between 2.3.59 and 12.7.63 counted as qualifying service for the purpose of pension by the Department of Space where he has been working since 1971; and (b) whether the precedents of condonation of interruptions in a few cases ordered by the respondent Department have created any legitimate expectation in his favour for a similar treatment of his case, given the facts and circumstances thereof.

12. Recognising the critical importance of the point (a), in the preceding paragraph, we have granted adequate opportunity to the learned counsel for the applicant to cite any enabling provisions of rules/departmental instructions or administrative policy which could be interpreted as conferring a right on the applicant to have the period of service in BHEL treated not merely as a break, but as a break which may be condoned and then to have his past service in the State Government of Kerala considered as a service qualifying for the purpose of pension. No such provision, however, has been brought

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to our notice, except what we have already noticed under A4 and R1. These provisions do not evidently support the case of the applicant on this score.

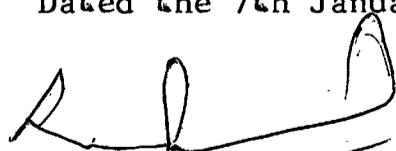
13. As regards the precedent cases cited by the applicant, we have to observe that the first and second respondents in their reply statement have maintained that the circumstances in those cases were quite different from those of the case of the applicant, and further that the break in service involved in all these cases was comparatively very short. Condonation of such breaks was therefore found expedient administratively. We find considerable force in these contentions of the respondent Department. We are, therefore, unable to hold that these precedent cases have the effect of creating an enforceable legal right or a legitimate expectation for condoning a break of nearly eight years in favour of the applicant before he joined the respondent Department.

14. Thus, when no legal right or legitimate expectation has been created in favour of the applicant, the reliefs prayed for by the applicant in the present case, essentially depending on the analogy of treatment of the precedent cases, can hardly be considered as based on convincing grounds.

15. We are, therefore, of the opinion that the applicant has failed to make out a case of either a vested legal right or of legitimate expectation in his favour, in the facts and circumstances that we have already discussed above.

16. As a result, the application is dismissed. There is no order as to costs.

Dated the 7th January, 1998.


S. K. GHOSAL
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

LIST OF ANNEXURES

1. Annexure A-3: Order No.LPSC/EST/24393 dated 16.6.1995 issued by Administrative Officer, Liquid propulation System Centre, Indian Space Research Organisation, Department of Space.
2. Annexure A4: Circular VSSC/PGA/GMS-45(23) dated 22.12.1975 issued by Administrative Officer, Vikram Sarabhai Space Centre, Trivandrum.
3. Annexure R1: O.M. No.28016/5/85-Estt(C) dated 31.1.1986 of the Govt. of India, Dept. of Personnel & Training, New Delhi.