

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO. 401/2000 & 693/2000

TUESDAY, THIS THE 28th DAY OF MAY, 2002.

C O R A M

HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER
HON'BLE MR. K.V. SACHIDANANDAN, JUDICIAL MEMBER

O.A. 401/2000

Jacob Chandy S/o late Vidwan V.C. Chandy
Retired Manager (Administration)
Cochin Ship Yard Ltd.
residing at 2542-A
AKG Vayanasaala Road
Thammanaam P.O.
Kochi-32.

Applicant

By Advocate Mr. T.C. Govindaswamy

Vs.

1. Union of India represented by
the Secretary to the Government of India
Ministry of Surface Transports
New Delhi.
2. The Cochin Ship Yard Ltd.
Kochi through its
Chairman-cum-Managing Director .

Respondents

By Advocate Mr. C. Rajendran, SCGSC for R-1

O.A. No. 693/2000

P.S. Bhanuvikraman S/o late Sreedhara Panicker
Retired Senior Operator (Copying Machine)
Gr.IV, Cochin Shipyard Ltd.
Cochin
residing at Vinod Nivas
Kumbalam P.O.
Kochi-682 506

Applicant

By Advocate Mr. T. C. Govindaswamy

Vs.

1. Union of India represented by
the Secretary to the Government of India
Ministry of Surface Transports
New Delhi.
2. The Cochin Ship Yard Ltd.
Kochi through its
Chairman-cum-Managing Director .

Respondents

By Advocate Mr. M. R. Suresh, ACGSC fpr R-1
By Advocate Mr. M. Pathros Mathai for R-2.

These Applications having been heard on 10.4.2002 the Tribunal delivered the following on 28.5.2002.

O R D E R

HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

As the issues involved in these two Original Applications are identical these two OAs were heard together and are being disposed of by this common order.

O.A.401/2000

2. According to the applicant's averment in the OA, he was initially appointed as a Lower Division Clerk on regular basis on 9.3.1959 in the Port of Cochin (now Cochin Port Trust), then a subordinate office under the control of the Ministry of Shipping and Transport (now Ministry of Surface Transports). He was thereafter transferred to "the Second Ship Yard" at Cochin on and w.e.f. 8.6.1961. The Second Ship Yard also in the same Ministry was under the Administrative Control of the Chairman of the Port of Cochin. The same Chairman was declared to be the Head of the department as regards those working in the Second Ship Yard also. Regular and substantive posts were created at the time of commencement of work in Second Ship Yard and the applicant's transfer and appointment was against one such post. Several others working in different other departments/office of the Central Government were also drafted to work in the said Ship Yard though on deputation basis. While working in the Ship Yard he was promoted as Upper Division Clerk and granted quasi permanency against the post of LDC w.e.f. 9.6.1964 and thereafter as UDC w.e.f. 24.12.1968. His initial appointment was after a due process of selection and his service throughout was substantive service liable to be treated as qualifying for pensionary benefits under the CCS (Pension) Rules, 1972. The Second



Ship Yard since 1969 was being called as Cochin Ship Yard Project. During 1972 the Cochin Ship Yard Ltd. a Govt. of India Undertaking was constituted. The Cochin Ship Yard Project/Second Ship Yard was ordered to be transferred to the Cochin Ship Yard Ltd. by A1 order dated 21.4.1972. Pending finalisation by the company of its own terms and conditions of service for its staff the company took over on a purely provisional basis all the staff of the project as on 1.4.1972. on their existing terms and conditions of service and deputation wherever applicable. The applicant was a Central Govt. employee and had 13 years and 23 days of pensionable qualifying service as on 1.4.1972 - the date of being taking over by the Company. No option was called for from the applicant nor did he exercise any option to reckon his Central Govt. Service as part of the service of the Cochin Ship Yard Ltd - a Public Sector Undertaking. The applicant was promoted from time to time and he superannuated on 28.2.1994 while working as Manager (Administration) in the scale of 3700-5900/-. The applicant submitted A-2 representation dated 12.10.99 addressed to the first respondent followed by A-3 reminder dated 20/22,.12.99. The applicant did not get any reply. However, the applicant in O.A. No. 693/2000 Shri Bhanuvikraman who was identically situated and whose case was rejected by the Government by A-4 letter dated 3.1.2000, and the applicant came to know that he would not get any individual reply and that the reasons stated in A-4 would apply to him also. Aggrieved the applicant filed this OA seeking the following reliefs:

(a) Declare that the applicant is entitled to be granted monthly pension and other retiral benefits as provided under the CCS (Pension) Rules, 1972, for the service rendered under the first respondent and direct the said respondent accordingly.



(b) Direct the first respondent to grant arrears of pension and other retiral benefits as per declaration in para 8(a) above, with 12% interest to be calculated upto the date of full and final settlement of the same.

(c) Award costs of and incidental to this Application.

(d) Pass such other orders or directions deemed just, fit and necessary in the facts and circumstances of the case.

Relying on Rule 37 of the CCS (Pension) Rules, 1972 applicant submitted that he would be eligible to receive retirement benefits

O.A. No. 693/2000

3. The applicant averred in the OA that he had been initially appointed as Peon in the scale of pay of Rs. 70-85 on 13.10.61 in the Second Ship Yard. He was granted quasi permanency status w.e.f. 14.10.64. He was promoted as Gestetner Operator in the scale of Rs. 110-3-131 w.e.f. 27.4.70. As on 1.4.1972 when the Second Ship Yard/Cochin Ship Yard Project was ordered to be transferred to the Cochin Ship Yard Ltd., the applicant had over 10 1/2 years of qualifying pensionable service. No option was called for from him. The applicant finally superannuated from service on 28.2.98 while working as Senior Operator (Copying Machine) Gr.-VI in the scale of Rs. 2550-4627. Till the applicant's retirement no option was called for from him. He submitted A-2 representation in response to which he received A-3 reply dated 18.8.99. He submitted another representation dated 21.12.99 addressed to the first respondent. He was informed by A-4 letter dated 3.1.2000 sent to him as enclosure to letter dated 7.2.2000 that his representation had been rejected. Submitting that the reason stated in A-4 was



totally arbitrary and claiming that he was entitled for pension for the service rendered under the Central Govt. he filed this OA seeking the following reliefs:

- (a) Call for the records leading to the issue of Annexure A-4 and quash the same.
- (b) Declare that the applicant is entitled to be granted monthly pension and other retiral benefits as provided under CCS (Pension) Rules, 1972 for the service rendered by him under the 1st respondent and direct the said respondent accordingly.
- (c) Direct the 1st respondent to grant arrears of pension and other retiral benefits as per declaration in para 8(a) above with 12% interest to be calculated upto the date of full and final settlement of the same.
- (d) Award costs of and incidental to this application.
- (e) Pass such other orders or directions as deemed just, fit and necessary in the facts and circumstances of the case.

4. Second respondent filed reply statement in each of the above OAs. It was admitted that the applicant in O.A. 401/2000 had 13 years of service and the one in OA 603/2000 had 10.5 year of service in the Central Government and that at the time of taking over of the employees in the Company the service rendered by them in Central Government was taken into consideration in fixing their service conditions. The applicants were also given all the benefits of their past service under the Central Govt. and the service under the Central Govt. was counted for the purpose of pay, grant of increment, payment of gratuity, etc. It was also submitted that the durations of their employment under the Central Govt. were taken as Company's service for all the purposes. Their gratuities were worked out for the entire period of their service upto the date of superannuation. It was submitted that there was no pension scheme for the second respondent company and the applicants were in receipt of monthly pension under Employees Pension Scheme 1995. There



was no unilateral conduct by the second respondent in giving them any benefit. According to the second respondent the allegation that the action of the second respondent Company in giving them any benefit as unauthorised and uncalled for, was without any basis and merit.

5. Applicants filed rejoinders in the respective OAs and counsel's statements were filed in both OAs by the first respondents' respective counsel in each of the OA. In the counsel's statement it was submitted that as the applicants had been paid retiral benefits on superannuation taking in to account the entire service including the service under the Department when the Shipyard was working as a Government Department they were not entitled for pension for the said service.

6. Heard learned counsel for the parties.

7. The learned counsel for the applicants Shri Govindaswamy submitted that the applicants were entitled for pension in accordance with Rule 37 read with Rule 49 of the CCS (Pension) Rules, 1972 and the denial of the same without any option of the applicants was arbitrary, discriminatory and contrary to law. According to him Pension was not a bounty and was a right of the employee governed by rules and the applicants could not be deprived of them unilaterally. He relied on Appendix 12 to Swamy's Pension Compilation (1998 Edition) and cited the following judgments of the Hon'ble Supreme Court in support of his submissions:

(i) Committee for Protection of Rights of ONGC Employees and Others Vs. Oil and Natural Gas Commission and Another [1990 SCC (L&S) 305]

(ii) Deokinandan Prasad Vs. The State of Bihar and Other (AIR 1971 SCC 1409)

A handwritten signature in black ink, appearing to be in cursive script, is positioned at the bottom of the page. The signature is somewhat stylized and includes a small flourish at the end.

(iii) Pradumman Kumar Jain Vs. Union of India and another [1994 SCC (L&S) 1149]

(iv) T.S. Thiruvangadam Vs. Secretary to Govt. of India, Ministry of Finance, Department of Expenditure, New Delhi and Others [1993 SCC (L&S) 495]

(v) Bhaskar Gajanan Kajrekar VS. Administrator, Dadra & Nagar Haveli and Others [1993 SCC (L&S) 760]

(vi) State of Punjab and Others Vs. Bawa Singh Harijan (1995) 31 ATC 199)

8. The learned counsel for the respondents submitted that the Ministry of Surface Transport considered the representation of the applicant and disposed of the same by R-1 order dated 24.1.2000 in O.A. 401/2000 and by A-4 dated 3.1.2000 in OA No. 693/2000. According to them the applicants were not entitled for pension since their services in the Second Ship Yard were deemed to be services under the Cochin Shipyard Ltd. and they have accepted the payments.

9. We have given careful consideration to the submissions made by the learned counsel for the parties and rival pleadings and have perused the documents brought on record.

10.. In OA 693/2000 the the impugned A-4 order rejecting the representation received from the applicant reads as under:

No.1-34014/19/99-O&M New Delhi the 3rd January, 2000.

To

Shri P.S. Bhanuvikraman
Vinod Nivas
Kumbalam Post Office
Kochi-682506 Kerala

Subject Representation received from Shri P.S. Bhanuvikraman requesting for grant of minimum pension.

Sir,

I am directed to refer to your representation dated 30.5.1999 received through the Department of Pension &



Pensioner's Welfare vide their letter dated 3.8.1999 and to say that your case has been examined in consultation with the Cochin Shipyards Limited as well as the Shipping wing of this Ministry. It is seen that prior to conversion of Second Shipyard into the Cochin Shipyards Limited in April, 1972, you had rendered about 10 and 1/2 years of service under the Government, which was taken into account by the CSL while granting you the retirement benefits including the gratuity. As such, separate pension for the 10 1/2 years of service rendered by you under the Government is not admissible to you.

Yours faithfully,

Sd/- M. K. Roy
Under Secretary to the Govt. of India

We find that the first respondent has given similar reason as in the above letter for rejecting the claim of the applicant in O.A. 401/2000 by R-1(c) letter dated 25.1.2000. From the above it is clear that that the only reason for rejecting the claim of the applicants for granting the pensionary benefits for their Central Government Service is XXXXXXXX XXXXXXXXXXXXXXXX XXX that the same had been taken into account by the Cochin Shipyard Ltd. while granting the applicants the retirement benefits including Gratuity. The applicants' case is that they are entitled for the retiral benefits for the services rendered under the first respondent as per Rule 37 read with Rule 49 of the CCS Pension Rules 1972 and that the reasons given in the impugned order in O.A. 693/2000 was arbitrary, discriminatory and contrary to law and hence violative of Article 14, 16, 21 and 41 of the Constitution of India. There is no dispute about the services rendered by the applicants under the first respondent. The applicant in O.A. No. 693/2000 has put in about 10 1/2 years of service and the applicant in O.A. No. 401/2000 has put in about 13 years of service under the first respondent. It is also admitted by the respondents that w.e.f. 1.4.72 the second Cochin Ship Yard Project was converted into a Public Sector Undertaking as Cochin Shipyard Ltd. From the judgment of the

[Signature]

Hon'ble Supreme Court cited by the learned counsel for the applicants in T.S. Thiruvengadam Vs. Secretary to Government of India, Ministry of Finance, Department of Expenditure, New Delhi and Others (1993 SCC (L&S) 495) we find that as per memorandum dated 16.6.1967 the benefits admissible to a Government employee absorbed in Public Sector Undertakings were as following:

- (i) A permanent Government servant with not less than 10 years qualifying service on absorption in public undertaking was eligible for pro-rata pension and death-cum-retirement gratuity based on the length of his qualifying service under Government till the date of absorption. The pension was to be calculated on the basis of average emoluments immediately before absorption.
- (ii) The pro rata pension, gratuity, etc. admissible in respect of the service rendered under the Government was disbursable only from the date the Government servant would have normally superannuated had he continued in service.

11. We find from Annexure-II under item (12) of Appendix 12 in Swamy's Pension compilation that OM No. F.2(6)-EV(A)/62 dated 5.11.1964 governed the pensionary term in respect of Government employees who were transferred to an autonomous body/public undertaking on the conversion of a Central Government Department/Office into an autonomous body or a public undertaking.

12. Rule 37 of the CCS (Pension) Rules provides as follows:

37. pension on absorption in or under a corporation, company or body

- (1) A Government servant who has been permitted to be absorbed in a service or post in or under a Corporation or Company wholly or substantially owned or controlled by the Central Government or a State Government or in or under a Body controlled or



financed by the Central Government or a State Government, shall be deemed to have retired from service from the date of such absorption and subject to sub-rule (3) he shall be eligible to receive retirement benefits if any, from such date as may be determined, in accordance with the orders of the Central Government applicable to him

Explanation - Date of absorption shall be-

(i) in case a Government employee joins a corporation or company or body on immediate absorption basis, the date on which he actually joins that corporation or company or body

(ii) in case a Government employee initially joins a corporation or company or body on foreign service terms by retaining a lien under the Government, the date from which his unqualified resignation is accepted by the Government.

(2) The provisions of sub-rule (1) shall also apply to Central Government servants who are permitted to be absorbed in joint sector undertakings, wholly under the joint control of Central Government and State Governments/Union Territory Administrations or under the joint control of two or more State Governments/Union Territory Administrations.,

(3) Where there is a pension scheme in a body controlled or financed by the Central Government in which a Government servant is absorbed, he shall be entitled to exercise option either to count the service rendered under the Central Government in that body for pension or to receive pro rata retirement benefits for the service rendered under the Central Government in accordance with the orders issued by the Central Government.

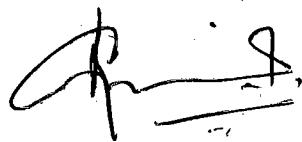
Explanation- Body means autonomous body or statutory body.

13. Rule 49 of the CCS (Pension) Rules provides as follows:

Amount of Pension

(1) In case of a Government servant retiring in accordance with the provisions of these rules before completing qualifying service of ten years, the amount of service gratuity shall be calculated at the rate of half month's emoluments for every completed six monthly period of qualifying service.

2(a) In the case of a Government servant retiring in accordance with the provisions of these rules after completing qualifying service of not less than thirty three years, the amount of pension shall be



calculated at fifty per cent of average emoluments, subject to a maximum of four thousand and five hundred rupees per mensem.

(b) in the case of a Government servant retiring in accordance with the provisions of these rules before completing qualifying service of thirty three years, but after completing qualifying service of ten years, the amount of pension shall be proportionate to the amount of pension admissible under Clause (a) and in no case the amount of pension shall be less than Rupees three hundred and seventy five per mensem.

(c) notwithstanding anything contained in Clause (a) and Clause (b) the amount of invalid pension shall not be less than the amount of family pension admissible under sub-rule (2) of Rule 54.

(3) In calculating the length of qualifying service, fraction of a year equal to three months and above shall be treated as a completed one half year and reckoned as qualifying service.

(4) The amount of pension finally determined under Clause (a) or Clause (b) of sub-rule (2) shall be expressed in whole rupees and where the pension contains a fraction of a rupee it shall be rounded off to the next higher rupee.

14. From a harmonious reading of the OM referred to by the Hon'ble Supreme Court in Thiruvengadam's case, the OMs in Appendix 12, and Rules 37 and 49 of the CCS (Pension) Rules in our view the following features emerge:

(i) The applicants cannot get retiral benefits from both the respondents for their respective Central Government Service prior to 1.4.1972.

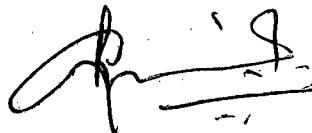
(ii) The applicants are entitled to exercise an option regarding the pro-rata pension for the service rendered by them for the duration they had worked directly under the Central Government.

The respondents have not produced any document or material to show that the applicantshad opted to forego their claim and had opted to be governed by the Rules of the Cochin Shipyard Ltd. for the purpose of retiral benefits counting these



periods also. The applicants have averred in the Original Application that they are prepared to refund any benefits given by the second respondent unilaterally to them by way of retiral benefits for these periods. In the above view of the matter we find considerable force in the claim of the applicants for the pensionary benefits for their services under the Central Government. The respondents produced R-2(b) and R2(c). Both these documents do not indicate anything which would make the applicants ineligible for the pensionary benefits for the services rendered by them under the Central Government. In fact they clearly say that pending finalisation by the Company of its own terms and conditions for its employees of the staff on being taken over by the Company on provisional basis as on 1.4.1972 on their existing terms and conditions of services whereever applicable. Thus, the position that emerges is that if the applicants were not absorbed w.e.f. 1.4.1972 they would have to be treated as Central Government servants even on the date of their superannuation. As there is no dispute that they had been absorbed permanently w.e.f. 1.4.1972, upto 1.4.1972 the applicants are to be treated as Central Government servants and hence they would be governed by the rules existing then. In the absence of anything to the contrary it would appear that the OM referred to by the Hon'ble Supreme Court which we have extracted above would govern the grant of benefits to the employees like the applicants.

15. Pension is a statutory right and non-grant of pension violates the statutory right of the applicants. We get support for the above view from the judgment of the Hon'ble Supreme Court in Deokinandan Prasad Vs. The State of Bihar and Others (AIR 1971 SC 1409) the Hon'ble Supreme Court held as follows:



29. According to the petitioners the right to receive pension is property and the respondents by an executive order dated June 12, 1968 have wrongfully withheld his pension. That order affects his fundamental rights under Arts. 19(1)(f) and 31(1) of the Constitution. The respondents, as we have already indicated, do not dispute the right of the petitioner to get pension, but for the order passed on August 5, 1966. There is only a bald averment in the counter affidavit that no question of any fundamental right arises for consideration. Mr. Jha, learned counsel for the respondents was not prepared to take up the position that the right to receive pension cannot be considered to be property under any circumstances. According to him in this case no order has been passed by the State granting pension. We understood the learned counsel to urge that if the State had passed an order granting pension and later on rescinds from that order, the latter order may be considered to affect the petitioner's right regarding property so as to attract Arts. 19(1)(f) and 31(1) of the Constitution.

30. We are not inclined to accept the contention of the learned counsel for the respondents. By a reference to material provisions in the Pension rules, we have already indicated that the grant of pension does not depend upon an order being passed by the authorities to that effect. It may be that for the purposes of quantifying the amount having regard to the period of service and other allied matters, it may be necessary for the authorities to pass an order to that effect, but the right to receive pension flows to an officer not because of the said order but by virtue of the Rules. The Rules, we have already pointed out clearly recognise the right of persons like the petitioner to receive pension under the circumstances mentioned therein.

16. It was further held by the Hon'ble Apex Court:

"...that pension is not a bounty payable on the sweet will and pleasure of the Government and that, on the other hand, the right to pension is a valuable right vesting in a Government servant." (para 32).

In view of the above the plea taken by the respondents that as the applicants had received their Gratuity for the periods of service under the Central Government they were not entitled for pensionary benefits for the said service cannot be accepted. Further, we find that the Gratuity received by the applicants was under the Payment of Gratuity

A handwritten signature in black ink, appearing to read "A. S." or "A. S. Jha".

Act. The applicants are prepared to return the amounts received by them as pensionary benefits for the period of service rendered by them under the Central Government.

17. The applicants continued in service first under the first respondent followed by service under the second respondent. They earned promotions under both of them. The respondents do not have a case, that the applicants were not permanent, hence they were not entitled for pensionary benefits. In any case even if such a plea is taken, we are unable to accept the same as the applicants have continued under both the respondents all the years and have earned promotions also. So it cannot be held that they were not substantive holders of any post.

18. In Praduman Kumar Jain Vs. Union of India and another (1994 (L&S) 1149, Hon'ble Apex Court held:

This Court in Baleshwar Dass Vs. State of U.P. interpreted the term "holding of a post in a substantive capacity" in the following terms (SCR headnote p.451)

A person is said to hold a post in a substantive capacity when he holds it for an indefinite period, especially of long duration in contradistinction to a person who holds it for a definite or a temporary period or holds it on probation subject to confirmation. If the appointment is to a post and the capacity in which the appointment is made is of indefinite duration, if the Public Service Commission has been consulted and has approved, if the prescribed and has been approved, one may well say that the post was held by the incumbent in a substantive capacity."

(para 11)

Although the combined reading of the two Office Memorandums reproduced above support the appellant's contention that he stood confirmed in the post of Assistant Meteorologist before he resigned the Central Government service but it is not necessary for us to go into the effect of the two Memorandums. Examining the facts and circumstances of this case in the light of the law laid down by this Court in Baleshwar Dass case, the only



conclusion which can be drawn is that the appellant was working as Assistant Meterologist in a substantive capacity. (Para 12)

19. We also hold that the second respondent Company was bound to afford an opportunity to the applicants to exercise an option as to whether they wanted the periods of their service under the Central Government to be counted for their pensionary benefits under the Company. We find from the extract of the OM referred to by the Hon'ble Supreme Court in Tiruvengadam's case that the pro-rata pension, gratuity etc. admissible in respect of the services rendered under the Government was to be disbursed only from the date Govt. servant superannuate had he continued in service. In this case the applicant in O.A. 401/2000 superannuated on 28.2.94 and the applicant in O.A. NO. 693/2000 superannuated on 28.2.98. They had approached this Tribunal in April, 2000 and June, 2000 respectively, the latter challenging the order dated 3.1.2000. The learned counsel for the applicant relied on the judgment of the Hon'ble Supreme Court in State of Punjab and Others Vs. Bawa Singh Harijan (1995 31 ATC 199) to submit that the limitation in such cases would not arise and as the applicant is entitled to pension on the basis of Rules and every time he is not paid the pension amount the cause of action arises. While we find considerable force in these submissions, we are of the view that the bar of limitation would arise in O.A 401/2000 as regards payment of gratuity for the period of the applicant's Government service.



20. As already stated by us in the above para, the applicant in OA 401/2000, superannuated on 28.2.1994. Therefore, his claim of arrears on account of monthly pension from 1.3.1994 and payment of gratuity which became payable within three months of March, 1994 are barred by limitation.

21. The second respondent disbursed the applicants' retirement benefits including for their periods of Government service without obtaining any option from them. Therefore in order to enable the applicants to remit the proportionate retiral benefits for their Government service, received by them from the second respondent, the second respondent has to intimate the applicants the value of the proportionate retiral benefits granted to them. We direct the second respondent to do so within one month of the date of receipt of a copy of this order.

22. In addition, keeping the various aspects of the two Original Applications as brought out in the foregoing paragraphs we give the following orders/directions in each of the two OAs.

23 O.A.401/2000

(a) We declare that the applicant is entitled to be granted monthly pension as provided under the CCS (Pension) Rules 1972 for the service rendered under the first respondent subject to the condition that he remits the proportionate retiral benefits received by him from the second respondent for his Government service within one month from the date of receipt of



the intimation of the value of the proportionate retiral benefits, under advice to both the respondents.

(b) As soon as the applicant remits the proportionate retiral benefits and advises the same as in (a) above, first respondent shall issue necessary orders sanctioning monthly pension to the applicant for his Government service and shall disburse the same every month thereafter.

(c) We direct the first respondent to arrange payment of arrears of monthly pension to the applicant for a period of one year counted backwards from the date of filing of this Original Application within a period of two months from the date of issue of sanction order as in (b) above.

(d) In the facts and circumstances of the case we leave the parties to bear their respective costs.

24. OA 693/2000

(a) We set aside and quash A-4 letter dated 3.1.2000.

(b) We declare that the applicant is entitled to the grant of monthly pension and other retiral benefits as provided under the CCS (Pension) Rules, 1972 for the service rendered under the first respondent subject to the condition that he remits the proportionate retiral benefits received by him from the second respondent for his Government service within one month from the date of receipt of the



intimation of the value of the proportionate retiral benefits from the second respondent, under advice to both the respondents.

(c) As soon as the applicant remits the proportionate retirement benefits and advises the same as in (b) above, first respondent shall issue necessary orders sanctioning retiral benefits to the applicant for his Government service.

(d) We direct the first respondent to arrange payment of his monthly pension as in (c) above regularly.

(e) We further direct the first respondent to disburse the arrears arising out of (b) and (c) above including gratutity within two months of the date of sanction referred to in (c) above.

(e) In the facts and circumstances we leave the parties to bear their respective costs.

25. In the result the two Original Applications O.A. NO. 401/2000 and OA No. 693/2000 stands allowed to the extent indicated in paras 21, 23 and 24.

Dated the 28th May, 2002.



K.V. SACHIDANANDAN
JUDICIAL MEMBER



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER

kmn

- 19 -
A P P E N D I X

O.A.401/2000

Applicant's Annexures:

1. A-1: A true copy of the Office Order No.J.11011/1/72 dated, 21.4.1972 issued by the Chief Project Officer, Cochin Ship Yard Ltd., Kochi.
2. A-2: A true copy of the representation dated, 12.10.99 submitted by the applicant to the 1st respondent.
3. A-3: A true copy of the reminder dated, 20/22.12.1999 submitted by the applicant to the 1st respondent.
4. A-4: A true copy of the letter bearing No.1-34014/19/99-O&M dated, 3.1.2000 issued by under Secretary to the Government of India.

Respondents' Annexures:

1. R-1(a): True copy of certificate of service details of the applicant.
2. R-1(b): True copy of letter No.SY-12(12)/69 dated 5.4.1971.
3. R-1(c): True copy of letter No.SY-19014/9/99-CSL dated 25.1.2000.

O.A 693/2000

Applicant's Annexures:

1. A-1: True copy of the office order No.J-11011/1/72 dated 21.4.72 issued by the Chief Project Officer, Cochin Ship Yard Ltd.
2. A-2: True copy of the representation submitted to the 1st respondent by the applicant dated 30.5.99.
3. A-3: True copy of the letter No.1-34014/19/99-O&M dated 18.8.99 issued from the office of the 1st respondent.
4. A-4: True copy of the letter No.1-34014/19/99/O&M dated 3.1.2000 issued from the office of the 1st respondent.

Respondents' Annexures:

1. R1-A: True copy of the representatin of the applicant dt.30.5.99.
2. R2-A: True copy of the Lt.No.PF/002 dt.12 Oct 99. To Secretary to Govt. of India, Ministry of Surface & Transport by Dy.General Manager.
3. R2-B: True copy of order Ref.No.J 11011/1/22 dated April 21, 1972.
4. R2-C: True copy of order Ref.No.J 11011/1/22 dated April 21, 1972.
5. R3-A: True copy of the Notice for payment of gratuity No.PF/002 dated 25 Feb. 98.
6. R4-B: True copy of FIN/GRA/0002/99 dated 10.9.99 payment of Gratuity.
7. R5-A: Memorandum of settlement.
8. R6-A: True copy of the Lt.No.1-34014/19/99/O-M New Delhi dated the 3rd January, 2000.

npp

30.5.02