

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.401/2007

Friday this the 10 th day of October, 2008.

CORAM:

**HON'BLE MR.GEORGE PARACKEN, JUDICIAL MEMBER
HON'BLE MS. K.NOORJEHAN, ADMINISTRATIVE MEMBER**

**K.K.Mohammed Jalaluddin Hamzakoya,
S/o Cheriyakoya,
Sub Postmaster, Kalpeni, residing at
Kunnamkulam House,
Kalpeni P.O., Pin.-682 557.**

Applicant

(By Advocate Shri P.C.Sebastian)

Vs.

- 1. The Superintendent of Post Offices,
Lakshadweep Division, Kavarathi – 682 555.**
- 2. The Postmaster General,
Central Region, Kochi – 682 018.**
- 3. The Joint Director,
Directorate of Field Publicity,
Govt. of India, Regional Office, Kerala,
Thiruvananthapuram.**
- 4. Union of India, represented by Secretary to
Government of India,
Ministry of Communications,
Department of Posts, New Delhi -11.**

Respondents

(By Advocate Shri TPM Ibrahim Khan, SCGSC)

**The application having been heard on 10.10.2008
the Tribunal on the same day delivered the following:**

ORDER

HON'BLE MR.GEORGE PARACKEN, JUDICIAL MEMBER

The applicant was initially appointed as chowkidar in the Field Publicity Office, Kavarathi in the year 1972. He was promoted to the post of Lower Division Clerk in that department on 22.8.1974. While working in that capacity he has submitted the resignation letter dated 4.6.1979 which reads

as under :

“As I desire to improve my prospects, I hereby tender my resignation as Lower Division Clerk in the Field Publicity Department. I request that my resignation may kindly be accepted and I may kindly be relieved with effect from 7 th June 1979 afternoon.”

2. Thereafter, he joined the present Office i.e. The Office of the Superintendent of Post Offices, Lakshadweep, Kavarathi and retired from there on 31.8.2008. Prior to his retirement the respondents have issued Annexure A-1 service records dated 5.1.2005. According to the applicant, he came to know only at that time that his past service in the earlier department (Field Publicity Department) from 1972 to 1979 was not counted for pensionary benefits and in Annexure A-1 only the service which he rendered in the Postal Department was shown. He has, therefore, made a representation (A2) on 28.1.2005 to the 2nd respondent viz., Postmaster, Head Post Office, Kochi requesting to combine his both spells of service and to count the same for pensionary benefits.

3. However, the respondents have rejected his request vide Annexure A- 8 impugned order dated 15.3.2007 stating that :--

“Past service could be counted, taking your resignation from the former department as a technical one, only if the application for employment in the department was routed through proper channel and the order accepting your resignation from that department clearly indicates that you are resigning to join another department with proper permission and then the benefit under Rule 26 (2) of CCS Pension Rule – 1972 will be admissible. ”

4. The contention of the applicant is that the respondents were well aware that he had resigned from the earlier post on technical grounds and it is clear from Annexure A-5 letter dated 3.8.2006 issued by the Joint Director, Directorate of Field Publicity, Regional Office, Kerala to the Superintendent

of Post Offices, Lakshadweep Division, Kavaratti in which it has been stated that the applicant "had given his technical resignation on 4.6.1979" and the same "was accepted and relieved the applicant from the department w.e.f. 8.6.1979."

5. We have heard Shri P.C. Sebastian, learned counsel for applicant and Ms. Jisha, representing Mr. TPM Ibrahim Khan, SCGSC. It is seen that one can claim the benefit of past service for pension only in terms of Rule 26 (2) of CCS(Pension) Rules 1972 which reads as under:

"A resignation shall not entail forfeiture of past service if it has been submitted to take up, with proper permission, another appointment, whether temporary or permanent, under the Government where service qualifies."

It is seen that the applicant submitted his Annexure R-1 resignation letter dated 4.6.1979 to his former office, i.e. The Regional Officer, Directorate of Field Publicity, Trivandrum without assigning any reasons covered by the aforesaid rules. The reason given by him for his resignation in that letter was that he wanted to "*improve his prospects.*" Obviously, the respondents have accepted the resignation and it has to be in terms of Rule 26(1) of CCS (Pension) Rules 1972 which reads as under:

"Resignation from a service or a post, unless it is allowed to be withdrawn in the public interest by the Appointing Authority, entails forfeiture of past service."

Annexure A-5 letter dated 3.8.2006 relied upon by the applicant also indicates that he has not forwarded his application for appointment in the present office through proper channel. Once there is a specific rule governing technical resignation for the purpose of accepting employment in a different pensionable department and if the same is not followed, one cannot claim the benefits arising therefrom. It is also seen that though the

applicant has joined his present department way back in 1979, he has never represented to them to count his past service for any purpose before the one he made on 15.1.2007 to the P.M.G., Central Region, Kochi as seen from the impugned Annexure A-8 letter dated 15.3.2007. We, therefore, do not find any merit in this O.A. and accordingly the same is dismissed. There shall be no order as to costs.

Dated the 10th October, 2008.


MS. K. NOORJEHAN
ADMINISTRATIVE MEMBER


GEORGE PARACKEN
JUDICIAL MEMBER

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