

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.181/00295/2018

Friday, this the 06th day of April, 2018

CORAM:

Hon'ble Dr. K.B. Suresh, Judicial Member

P. Kunhikoya,
S/o. Shaikoya, Aged 62 years,
WC Maistry (Retd.), LPWD, Sub Division,
Union Territory of Lakshadweep, Kalpeni – 682 557,
Residing at Peechiyath,
Union Territory of Lakshadweep,
Kalpeni – 682 557.

..... **Applicant**

(By Advocate – Mr. N. Unnikrishnan)

V e r s u s

- 1 Union of India,
Represented by the Secretary to the Government of India,
Ministry of Personnel, Public Grievances & Pension,
Department of Personnel and Training, North Block,
New Delhi – 110 001.
- 2 The Administrator,
Union Territory of Lakshadweep, Kavaratti – 682 555.
- 3 The Pay and Accounts Officer,
Central Pension Accounting Office (CPAO), Ministry of Finance,
Department of Expenditure, Trikot II, Bikajicama Place,
New Delhi – 110 066.
- 4 The Principal Pay and Accounts Officer,
Union Territory of Lakshadweep,
Kavaratti – 682 555.
- 5 The Superintending Engineer,
Lakshadweep Public Works Department,
Union Territory of Lakshadweep, Kavaratti – 682 555.
- 6 The Executive Engineer,
LPWD Sub Division,
Kalpeni Island – 682 557.
- 7 The Chairman,

Pension Fund Regulatory & Development Authority,
 First Floor, ICADR Building, Plot No. 6,
 Vasanthakunj Institutional Area, Phase II,
 New Delhi – 110 070.

..... **Respondents**

(By Advocate – Mr. S. Manu (R2, R4 to R6) & Mr.N.Anilkumar for R 1,3&7)

This Original Application having been heard on 06.04.2018, the Tribunal on the same day delivered the following:

ORDER

Per: K.B. Suresh, Judicial Member

Heard. The matter seems to be very very simple. The learned counsel for the respondents submit that the issue is that both the new pension scheme and the old pension scheme cannot be cumulatively granted to a person. This stand of the government is totally correct since the Hon'ble High Court in OP(CAT) No.31 /2014 (Z) dated 21.12.2015 had decided this issue and apparently, according to the counsel the matter had gone up to Hon'ble Apex Court and the Hon'ble Apex Court having settled the matter by dismissing the SLP, it has become final. But the objection raised that both pension schemes cannot made available seem to be correct. Therefore, let there be a re-look into the matter by the respondents within the next two months. If any benefits have been granted as the new pension scheme, it may be re-modulated and re-adjusted as has been given under the old pension scheme and therefore, both the interest of the applicant and the respondents can be protected. The learned counsel for the respondent would say that a similar matter is being looked into by the Division Bench of the Tribunal today. Without any doubt, this will be subject to the decision of the Division Bench also. The only question herein is a law of election whether the applicant is eligible for new pension scheme or old pension

scheme. As the applicants and others have been found eligible for the old pension scheme by the Hon'ble Apex Court now, there is no role for the Tribunal in this matter whether it be Division or Single. The decision of the Hon'ble Apex Court will prevail over everyone. That being so, only thing which is left now is only to determine the quantum. That will leave in to the respondents' legal discretion. Let them decide the same within two months time. Determine the benefit which would have been available to the applicant and others like them under the old pension scheme and if at all any benefit that have been granted under the new pension scheme then determine the quantum and after modulated either by subtracting or adding to each other and arrive at the correct quantum of the figure to be granted to each of the applicants and the benefits may be granted within the next two months. The respondents may give a due and drawn statement to the parties .

2. The Original Application is disposed of as above. No costs.

(K.B. SURESH)
JUDICIAL MEMBER

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List of Annexures of the Applicant

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| Annexure A-1 | - | A true copy of Office Order F. No. /03/3/2003-C3/881 dated 27.03.2013. |
| Annexure A-2 | - | A true copy of Relieving Order F No. 1/13/2013-AEK/215 dated 30.06.2015. |
| Annexure A-3 | - | A true copy of F. No. 1/02/2015-B5/1071 dated 15.12.2015 issued by the 6 th Respondent. |
| Annexure A-4 | - | A true copy of Order dated 01.07.2013 in OA No. 949/2010 and OA No. 746/2011. |

- Annexure A-5 - A true copy of Judgment dated 21.12.2015 in O.P. (CAT) No. 31/2014, 32/2014 and No. 42/2013.
- Annexure A-6 - A true copy of Office Memorandum No. 49014/2/4-Estt dated 26.02.2016.
- Annexure A-7 - A true copy of Office Memorandum No. 49014/2/2014-Estt(C) dated 28.07.2016.
- Annexure A-8 - A true copy of Casual Labourers (Grant of Temporary Status and Regularization) Scheme of the Government of India, 1993.
- Annexure A-9 - A true copy of Office Memorandum No. 38/64/98-P&PW(F) dated 01.05.2012.
- Annexure A-10 - A true copy Representation dated 03.03.2018 before the second respondent.

List of Annexures of the Respondents

Nil.
