

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH, ERNAKULAM**

**REVIEW APPLICATION NO.180/00031/2018**  
**IN**  
**ORIGINAL APPLICATION NO.180/00816/2017**

**DATED THIS THE 13<sup>th</sup> DAY OF JUNE, 2018**

**HON'BLE DR.K.B.SURESH**

**...MEMBER(J)**

1. The Commander Works Engineer (NW),  
Military engineer Services,  
Kataribagh, Naal Base P.O., Kochi – 682 004.
2. The Chief Engineer,  
Head Quarters, Southern Command,  
Pune – 411 001.
3. The Chief Engineer (NW),  
Military Engineer Services,  
Kataribagh, Naval Base P.O.,  
Kochi – 682 004.
4. The Assistant Garrison Engineer (I) R&D,  
Military Engineer Services, Thrikkakkara Post,  
Kakkanad, Kochi – 682 021.
5. Union of India, Represented by its Secretary,  
Ministry of Defence, South Block,  
New Delhi – 110 001.

**...Applicants**

(By Sr.PCGC Shri N.Anil Kumar)

**Vs.**

Shri M.K.Aboo,  
MES-109620, Fitter Piper (SK),  
Military Engineer Services,  
O/o the Assistant Garrison Engineer (I) R&D,  
Thrikkakkara P.O., Kakkanad,  
Kochi – 682 021.  
Now under orders of permanent transfer,  
To the O/o the Garrison Engineer (NS),  
Military Engineer Services,  
Kataribagh, Naval Base (P.O), Kochi-682 004.

**...Respondent**



**ORDER (BY CIRCULATION)**

It is stipulated by the respondents as in the OA that the applicant who is a Union Government employee has been under the watch of the office of the Superintendent of Police, Ant-Corruption Bureau, Central Range which is the State organisation, whereas participation in a criminal activity is prejudicial to employment whether under the Union or State. The alleged infraction has the nexus of private individuals who has hostile animus to the applicant.

2. The respondents rely on Annexure RA4 No.25013/3/2010-Estt(A) dated 27.02.2014 wherein it is said that it shall be open to the appropriate authority to withhold permission to a Government servant who seeks to retire under FR 56(k) or 56(m) on the following circumstances: "If judicial proceedings on charges which may amount to grave misconduct are pending."

3. On 17.04.2018 that is four days after the judgment under impeachment to indicate that the criminal miscellaneous petition was transferred to the Hon'ble Court of Enquiry Commissioner and Special Judge and number CMP 537/2015 for **hearing the complainant**. It is not indicated whether the complainant is the original complainer or the office of the Superintendent of Police. Therefore during the currency of consideration of voluntary retirement no criminal case was pending against the applicant as it had not yet been taken cognizance of a criminal court besides applicant is an employee of Union Government and the wordings used in the DOPT Circular are not indicative of a wider horizon allowed in the jurisdiction of these both authorities. If the applicant had a life as a



member of co-operative society it may or may not be relevant to his employment, but he will face that at the appropriate time.

4. The reason being that, is one private person seem to have filed complaint after complaints against the applicant which we have gone through and as it has all the hallmarks of politically or personally motivated harangue that may not be a reason sufficient for denying the employee to voluntarily retire from Government service which is actually his bread and butter. When he found that he cannot continue his social activity and Governmental employment together it is for him to decide to continue one or the other. Therefore this letter of Annexure RA3 read with Annexure RA4 will not pose any obstacle against the applicant getting voluntary retirement. Annexure RA5 is also not intended to prevent any employee leaving his service as under **a specific enactment of laws of land no man can be compelled to commit his personal service against his will. Prevention of leaving his service is to prevent further prejudice in the department in question and not to alleviate personal hostility of a private individual.** Just because the police force has registered an FIR against somebody it does not have any other effect against any one which will tantamount to diminish the constitutional right of any citizen. Therefore there is no merit. RA dismissed. No costs.

(DR.K.B.SURESH)  
MEMBER(J)

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**Annexures referred to by the applicant in RA No.180/00031/2018.**

- Annexure RA-1: Copy of the order dated 13.04.2017 in  
OA No.180/00816/2016.
- Annexure RA-2: Copy of the speaking order No.10453/180-525/2017/34/LC  
Dated 23.09.2017.
- Annexure RA-3: Copy of the Communication No.QV 11/2012/EKM  
Dated 17.04.2018.
- Annexure RA-4: Copy of the Gazette Notification No.GSR.27(E)  
dated 17.01.2014.
- Annexure RA-5: Copy of the provisions relating to Rule 48-A of the  
CCS Pension Rules 1972.

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