

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.180/00816/2017

Friday, this the 13th day of April, 2018

CORAM:

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

M.K. Aboo, MES-109620,
Fitter Pipe (SK), Military Engineer Services,
O/o. The Assistant Garrison Engineer, E/M, R&D,
Thrikkakara (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.

..... **Applicant**

(By Advocate – Mr. P.K. Madhusoodanan & Mr.Binoy Krishna P.M)

V e r s u s

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

..... **Respondents**

(By Advocate – Mr. N. Anilkumar, Sr. PCGC)

This Original Application having been heard on 13.04.2018, the Tribunal on the same day delivered the following:

O R D E R (ORAL)

Per: Dr. K.B. Suresh, Judicial Member

The matter seems to be covered on facts by our order in O.A. 180/187/2018 dated 9.4.2018. Therefore, they do not subsist any further impediment for the applicant to superannuate on voluntary basis.

2 The Tribunal have carefully gone through the reply as well as the letter from Shri N.N.Rafique. If the Tribunal go by Annexure R.2 which is written by Mr.N.N. Rafique, action should be initiated against so many superior officers who had apparently permitted the applicant to go during duty hours and canvas deposits for the said Co-operative Bank. Reference is also made to Annexure R-2/3 saying that the applicant had obtained consent and favours of the superiors and co-workers because they were able to get loans and other privileges from the Co-operative Bank, Edathala wherein the applicant was the President of the Bank.

3. Under Section 14 of the Specific Relief Act, no man can be compelled to continue in service if the applicant do not want to continue in Government employment, assuming that the contention taken by the applicant that he did not know that being a social worker in the co-operative movement was prohibited and was for a long year period he is serving the public and only at the fag end of his career then such a complaint had come up. Applicant would say that on coming to know that this is not a correct thing for a govt. servant to do, he had immediately resigned and had also sought for voluntary retirement. Since The Tribunal have already quashed the charge-sheet against the applicant nothing remains as an impediment against his voluntary retirement. If the disciplinary inquiries are postulated on Annexure

R-2 is to commence and continue, it will be an empty issue as lots of people who may have genuinely believed that they are doing the right thing may also be unnecessary called in this issue.

4. There is no allegation apparently as the applicant's activities have been prejudiced to the interests of the Govt organisation. Apparently, one hostile person had given so many complaints. But as the allegations that the applicant had become a politician by being a member of Edathala Service Co-operative Bank as its President cannot be entirely correct. Political activities and cooperative society activities are entirely two different things and Cooperative Societies activities are controlled by Co-Operative Society's Act. There appears to be a lot of grey areas in its operations. Therefore, the benefit of doubt will have to go to the applicant. It is held that he is eligible to have his voluntary retirement as apparently no further proceedings are pending against him. This will be done within one month next.

5. O.A. is allowed. No costs.

**(Dr. K. B. SURESH)
JUDICIAL MEMBER**

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List of Annexures of the Applicants

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| Annexure A-1 | - | True copy of the request for VRS contained in the notice dated 22.02.2017. |
| Annexure A-2 | - | True copy of the Letter No. 104/80/E1, dated 21.03.2017 to the applicant. |
| Annexure A-3 | - | True copy of the letter dated 15.03.2017. |
| Annexure A-4 | - | True copy of the letter dated 20.03.2017. |

Annexure A-5 - True copy of the show cause notice dated 30.11.2016.

Annexure A-6 - True copy of the explanation dated 01.12.2016 submitted by the applicant.

Annexure A-7 - True copy of the minor penalty of '*warning*' vide letter dated 19.01.2017 of the 1st respondent.

Annexure A-8 - True copy of the officer order No. 26 dated 14.02.2017 of the Garrison Engineer (NS), Kochi – 4.

Annexure A-9 - True copy of the Office Order No. 13/2017 dated 18.02.2017.

Annexure A-10 - True copy of the judgment dated 16.03.2017 in W.P. (C) No. 8807/2017 passed by the Hon'ble High Court of Kerala, Ernakulam.

Annexure A-11 - True copy of the representation dated 12.04.2017 submitted before the 1st respondent by the applicant, through proper channel.

Annexure A-12 - True copy of the letter dated 01.05.2017.

Annexure A-13 - True copy of the order dated 17.07.2017, in O.A./180/00525/2017 on the file of this Hon'ble Tribunal.

Annexure A-14 - True copy of the lawyer notice dated 29.08.2017, served on the 2nd respondent.

Annexure A-15 - True copy of the Order No. 10453/180-525/2017/34/LC, dated 23.09.2017 of the Respondent No. 1.

Annexure A-16 - True copy of the report of Deputy Superintendent of Police, Anti-corruption Bureau, Central Range, Ernakulam submitted before the Court of Inquiry, Commissioner and Special Judge, Thrissur.

Annexure A-17 - True copy of the order No. 10304/767/EINB, dated 27.09.2017.

Annexure A-18 - True copy of the movement order No. 59/2017, dated 28.09.2017, by the 4th respondent.

Annexure A-19 - True copy of the letter dated 29.06.2017 issued for the Chief Engineer R & D, MES, Picket, Secunderabad addressed to the 2nd Respondent.

List of Annexures of the Respondents

Annexure R-1 - True copy of the Letter No. 130103/9/2750/21/E1D dated 06.03.2017.

Annexure R-2 - True copies of the complaints against the applicant.

Annexure R-3 - True copy of the Letter No. 130103/9/2750/75/E1D dated 05.07.2017.
