

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.180/00958/2017

Dated this Wednesday , the 9th day of January, 2019.

CORAM:

Hon'ble Mr. Ashish Kalia, Judicial Member

N. Chandran Pillai S/o of Late Kesavan Pillai, Aged 63 years,
Retired Postman, Eddthua MDG, Department of Post, residing at
Nadukkolil, Mithrakary P.o.,
Ramankari via Alapuzha. **Applicant**

(By Advocate – Mr. V. Sajith Kumar with Ms. Arya Advocate)

v e r s u s

- 1 Union of India, represented by Secretary to Government,
Department of Posts, Ministry of Communications,
Government of India, New Delhi 110 001.
2. The Chief Postmaster General, Kerala Circle,
Trivandrum 695033.
3. The Superintendent of Post Offices, Thiruvalla, Postal Division,
Thiruvalla 689 101

..... **Respondents**

(By Advocate – Mr.N. Anilkumar, SrPCGC)

This Original Application having been heard on 09.01.2019, the Tribunal on the same day delivered the following:

ORDER (ORAL)

The present O.A. is filed seeking following reliefs:

- (i) To direct the Respondents to release the leave surrender based on the notional service, gratuity reckoning notional increments and the amount kept with Life Insurance Corporation towards annuity and all other consequential benefits in view of the notional service ordered in Annexure A.2.
- (ii) To direct the respondents to consider and pass orders on Annexures A7 representation.
- (iii) Grant cost of the original application.

2. The Applicant is aggrieved by the delay on the part of the Respondents in releasing the entire Retiral Benefits even after 3 years of retirement. The Applicant was not paid any gratuity. Though an amount of Rupees 1,96,565.00 was sanctioned, Rs.1,86,030/- was recovered as government contribution in to the National Pension Scheme. It is submitted that there is no justification to make such recovery from the gratuity instead the applicant submits that it would have been recovered from the National Pension Scheme itself. It is submitted that the respondents instead remitted a huge amount to Life Insurance Corporation for the purpose of annuity. The applicant submitted that the actions on the part of the respondents are highly unjust and unfair.

3. Brief facts of the case are that the applicant entered into service as GDS. He was a physically handicapped employee eligible for reservation in appointment/promotion and in pursuant to the directions of the Hon'ble High Court, he was appointed as a Group D with effect from 13/07/2014. It is submitted by the applicant that in another OA filed by him, his claim for appointment as Postman was recognized and he was appointed as Postman in the year 2010. The applicant finally retired from service w.e.f 31.10.2014. The rejection of his claim for the retrospective appointment and inclusion of statutory Pension Scheme, the applicant had approached the Hon'ble High Court wherein by judgement dated 03.08.2015 in WP(C) 27987 of 2005, it was directed to grant notional appointments to the applicant from the years 1997 as Postman and grant all consequent benefits including statutory pension. However, arrears of pay and allowances were declined.

4. Thereafter the applicant had made Annexure A7 representation dated 21.07.2017 seeking the following benefits:

- (i) The leave surrender based on revised pay reckoning notional increments.
- (ii) The entire gratuity reckoning the notional increments.
- (iii) The release of amount kept with Life Insurance Corporation of India towards annuity.
- (iv) Revision of pension after reckoning all the increments notionally as directed by the Court.

This representation is stated to have been not replied so far.

5. Notices were issued. Respondents put up their appearance through the Standing

Counsel and filed detailed written reply.

6. The respondents submitted that the applicant has already availed all the benefit under Non Pension Scheme to the extent of 100% and at the same time he is seeking the statutory pension which cannot be granted unless and until the contribution under NPS is refunded to the Govt. Otherwise, it will amount to double pension to the applicant.

7. Be that as it may, after hearing both sides, this Tribunal is of the view that in the interest of justice, a direction is to be issued to the respondents to dispose of Annexure A7 representation. Accordingly respondents are directed to dispose of pending Annexure A7 representation within a period of sixty days and communicate the decision by a speaking order. If the applicant is still aggrieved, he is at liberty to approach the appropriate forum for redressal of his grievance, if he is so advised, in accordance with law.

8. With the above direction, the O.A. is disposed of. No order as to costs.

(ASHISH KALIA)
JUDICIAL MEMBER

sj*

Annexures
(Applicant's)

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| Annexure A1 | - | A true copy of the letter No. C485/2014 dated 28/02/2014 issued by the 3 rd Respondent. |
| Annexure A2 | - | A true copy of the judgment dated 03.08.2015 in WP(C) 27987 of 2005. |
| Annexure A3 | - | A true copy of the order No. B2/Appt. Dated 31/12/2015 issued by 3 rd Respondent. |
| Annexure A4 | - | A true copy of the letter No. C485/2014 dated 12/02/2016 issued by the 3 rd respondent. |
| Annexure A5 | - | A true copy of the communication dated 05.02.2016 release by the Accounts Officer. |
| Annexure A6 | - | A true copy of the Life Insurance Corporation Certificate Dated 25/06/2015 issued by the Life Insurance Corporation of India. |
| Annexure A7 | - | A true copy of the representation dated 21/07/2017 submitted by the applicant to the 2 nd Respondent. |

Respondents' Annexures

Annexure R1: True copy of the Pension Payment Order.
