

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Original Application No. 181/00714/2018

Thursday, this the 20th day of December, 2018

CORAM:

Hon'ble Mr. Ashish Kalia, Judicial Member

D. Mohammed Manikfan, aged 58 years, S/o. G. Donmanikfan (late),
 (Retd. Executive Engineer/Lakshadweep, Public Works Department/
 Divisional Office/Kalpeni Island/Union Territory of Lakshadweep),
 Residing at : No. 6/41-B, Divehi, Vadakke Mullappalli Parambu,
 Calicut – 673 015. **Applicant**

(By Advocate : Mr. T.C. Govindaswamy)

V e r s u s

1. The Administrator, Union Territory of Lakshadweep,
Kavaratti – 682 555.
2. The Superintendent Engineer, Lakshadweep Public Works
Department, Circle Office, Union Territory of Lakshadweep,
Kavaratti -682 555.
3. The Secretary (Works), Lakshadweep Administration,
Union Territory of Lakshadweep, Kavaratti – 682 555.
4. The Pay & Accounts Officer, Lakshadweep Administration,
Kavaratti -682 555. **Respondents**

(By Advocate : Mr. S. Manu)

This application having been heard on 12.12.2018 the Tribunal on
 20.12.2018 delivered the following:

ORDER

Hon'ble Mr. Ashish Kalia, Judicial Member –

The applicant claimed relief as under:

“(a) Call for the records leading to the issue of Annexure A16 and quash the same to the extent it sanctions only the provisional pension and, that too, till the final outcome of an unknown and non-existing case;

- (b) Declare that the applicant is entitled to be paid all the retirement benefits, including regular monthly pension, commuted value of pension, retirement gratuity, leave encashment, composite transfer grant, Group Insurance Scheme amount etc. as if the applicant had retired from service with effect from the AN of 31.10.2017 and direct the respondents accordingly;
- (c) Direct further to grant all the retirement benefits, including monthly pension, commuted value of pension, retirement gratuity, leave encashment, composite transfer grant, Group Insurance Scheme amount etc. forthwith and at any case, within a time frame as might be specified by this Hon'ble Tribunal;
- (d) Direct the respondents to pay interest @ % per annum on the applicant's retirement benefits, including monthly pension, commuted value of pension, retirement gratuity, leave encashment, composite transfer grant, Group Insurance Scheme amount etc. to be calculated at least with effect from 1.2.2018 up to the date of full and final settlement of the same;
- (e) Award costs of and incidental thereto;
- (f) Pass such other orders or directions as deemed just and fit by this Hon'ble Tribunal.”

2. The brief facts of the case are that the applicant an Executive Engineer of the Lakshadweep Public Works Department sought voluntary retirement from service with effect from the afternoon of 31.10.2017. His grievance relates to non-disbursement of the applicant's pension and other retirement benefits, despite passage of time. He was initially appointed as Junior Engineer with effect from 28.9.1985 and was promoted from time to time and lastly as Executive Engineer in Kalpeni Divisional office of Lakshadweep Public Works Department. The applicant requested the 2nd respondent to intimate him about the number of earned leave and half pay leave to his credit. He was informed that 183 days of earned leave and 107 days of half pay leave are remaining to his credit. Further on the advice of the respondents the applicant also gave an undertaking in a non-judicial stamp paper to the value of Rs. 100 agreeing that he would be liable to pay

any loss or damage unearthed in the subsequent audit examination. He has not received any communication regarding his voluntary retirement and as per his notice he retired from service with effect from the afternoon of 31.10.2017. Thereafter on 1.11.2017 he received a message through e-mail that the notice of voluntary retirement submitted by the applicant has been examined by the competent authority and ordered to keep the notice in abeyance. Feeling aggrieved the applicant has approached this Tribunal with the above relief.

3. Notices were issued to the respondents. They have entered appearance through Shri S. Manu who had filed a counsel statement wherein it is contended that while processing Annexure A1 application the 2nd respondent vide letter dated 27.7.2017 has requested the Director (Vigilance), UT of Lakshadweep to issue vigilance clearance certificate in respect of the applicant. However, the Vigilance Department had initially issued VCC by letter dated 4.8.2017 but later issued letter dated 9.8.2017 withdrawing the VCC issued on 4.8.2017. Even before obtaining sanction/permission to retire, on expiry of three months from the date of Annexure A1 application, the applicant himself by Annexure A6 declared his retirement from service. That being so, on 20.8.2018, the 1st respondent by Annexure A16 order permitted the applicant to retire voluntarily from service w.e.f. 31.10.2017 AN under sub rule (1) of Rule 48 of CCS (Pension) Rules, 1972. The 1st respondent ordered to sanction provisional pension to the applicant till the final outcome of the case. The case mentioned in Annexure A16 order pertains to non-construction of sewage

treatment plant in Lakshadweep Government Guest House at Calicut and resultant cessation of operations. The allegation is that as per the proposed plan for construction of Lakshadweep Government Guest House, Calicut it was part of the construction. However, the building was completed without constructing the Sewage Treatment Plant and the same led to the cessation of its operation. On the direction of the 1st respondent the Director (Vigilance) UT of Lakshadweep has conducted a preliminary inquiry into the irregularities in the construction of Government Guest House at Calicut. The Director Vigilance submitted his inquiry report to the 1st respondent with a finding that there was sheer carelessness to the extent of madness and dereliction of duty, gross misconduct, and unpardonable wrong doing committed by the whole team i.e. Superintendent Engineer, Executive Engineer, Assistant Engineer, Junior Engineer and Architect. The applicant was the Executive Engineer having the charge of subject construction from 23.7.2015 to 30.4.2016.

4. Heard Shri T.C. Govindaswamy, learned counsel appearing for the applicant and Shri S. Manu, learned Standing Counsel for the respondents Union Territory of Lakshadweep. Perused the record.

5. During the course of arguments, respondents' counsel had submitted that the vigilance clearance certificate earlier issued was temporarily withdrawn vide letter dated 9.8.2017 and that since the applicant had been retired from service, the permission for initiation of formal enquiry/disciplinary proceedings against the applicant is required under

Rule 9 of CCS (Pension) Rules, 1965 wherein the sanction of the President of India is required. In case of UT of Lakshadweep the President is pleased to delegate the powers to the Administrator vide order No. 11012/12/2004-Estt.(A), dated 14.7.2005.

6. In view of the above, this Tribunal finds that no relief as prayed for in the OA can be granted unless the departmental proceedings are completed. Accordingly, having no merit, the Original Application is liable to be dismissed. Ordered accordingly. No order as to costs.

(ASHISH KALIA)
JUDICIAL MEMBER

“SA”

Original Application No. 181/00714/2018**APPLICANTS' ANNEXURES**

- Annexure A1** - True copy of representation dated 17.7.2017 addressed to the 1st respondent.
- Annexure A2** - True copy of message through fax bearing F. No. 1/1/2016-CI(Part)/2120 dated 27.10.2017 issued by the 2nd respondent.
- Annexure A3** - True copy of undertaking dated 28.7.2017 submitted by the applicant.
- Annexure A4** - True copy of list of articles and documents handed over and taken over as on 31.10.2017.
- Annexure A5** - True copy of certificate of transfer of charges in Form GFR-33 signed by the applicant and the Assistant Engineer of Kalpeni Sub Division dated 31.10.2017.
- Annexure A6** - True copy of communication dated 31.10.2017 submitted to the 1st respondent.
- Annexure A7** - True copy of message bearing F. No. 1/1/2015-C1/2150(a) dated 31.10.2017, issued from the office of the 2nd respondent.
- Annexure A8** - True copy of letter bearing F. No. 1/1-2016/B.II/2458 dated 6.11.2017 issued by the Executive Engineer in charge.
- Annexure A9** - True copy of communication from the 2nd respondent under letter bearing F. No. 73/8/2017-AB.1/2399 dated 5.12.2017.
- Annexure A10** - True copy of covering letter dated nil addressed to the 2nd respondent.
- Annexure A11** - True copy of communication bearing F. No. 73/08/2017-AB.1/29 dated 2.1.2018 issued from the office of the 2nd respondent.
- Annexure A12** - True copy of communication dated 24.1.2018 from the Accounts Officer (Pension) addressed to the EA to the Superintending Engineer, viz. the 2nd respondent.
- Annexure A13** - True copy of representation dated 25.3.2018 submitted by the applicant to the 1st respondent.

Annexure A14 - True copy of representation dated 1.6.2018 addressed to the 1st respondent.

Annexure A15 - True copy of letter dated 4.7.2018, addressed to the EA to the Superintending Engineer, viz. the 2nd respondent.

Annexure A16 - True copy of order bearing No. 1/1/2015/C1/1630 dated 20.8.2018 issued from the office of the 2nd respondent.

RESPONDENTS' ANNEXURES

Nil

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