

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&
THE HONOURABLE MR.JUSTICE K.HARILAL

TUESDAY, THE 6TH DAY OF JANUARY 2015/16TH POUSHA, 1936

OP (CAT).No. 1 of 2015 (Z)

AGAINST THE ORDER/JUDGMENT IN OA 715/2013 of CENTRAL
ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH DATED 28-03-2014

PETITIONER(S) :

MARIA ANTONY.M, AGED 56 YEARS
PLOT NO.69, ROSE GARDENS, THRISSUR.

BY ADVS.SRI.VIVEK VARGHESE P.J.
SRI.VARUGHESE M EASO

RESPONDENT(S) :

1. EMPLOYEES STATE INSURANCE CORPORATION
REGIONAL OFFICE (KERALA), PANCHDEEP BHAVAN,
NORTH SWARAJ ROUND, THRISSUR-680 001
REP.BY ASST COMMISSIONER & REGIONAL DIRECTOR.
2. SUB REGIONAL OFFICE (KOLLAM)
ESI CORPORATION, ST.THOMAS SHOPPING COMPLEX
CROSS JN., Q.S.ROAD, KOLLAM - 691 001.

R1,R2 BY ADV. SRI.T.V.AJAYAKUMAR, SC, ESI CORPN.

THIS OP (CAT) HAVING COME UP FOR ADMISSION ON 06-01-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF LETTER DATED 29.08.2009 BY THE PETITIONER TO THE 4TH RESPONDENT.

P2 : COPY OF MEMORANDUM DATED 24.11.2009 ISSUED BY R2 TO THE PETITIONER.

P3 : COPY OF REPLY DATED 04.12.2009 BY THE PETITIONER.

P4 : COPY OF LETTER DATED 30.11.2009 ISSUED BY THE PETITIONER TO THE 2ND RESPONDENT.

P5 : COPY OF LETTER DATED 01.12.2009 ISSUED BY R2 TO THE PETITIONER.

P6 : COPY OF LETTER DATED 26.03.2010 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.

P7 : COPY OF PETITION IN O.A.NO.978/2010 BEFORE CAT, ERNAKULAM BENCH (WITHOUT ANNEXURES) .

P8 : COPY OF LETTER NO.48-A/20/11/102/2009.ADM DATED 14.12.2010 BY THE 2ND RESPONDENT TO THE PETITIONER.

P9 : COPY OF ORDER DATED 18.02.2011 IN OA NO.978/2010 OF THE CAT, ERNAKULAM BENCH.

P10 : COPY OF ORIGINAL APPLICATION NO.OA 715/2013 OF THE CAT, ERNAKULAM BENCH.

P11 : COPY OF REPLY STATEMENT DATED 17.10.2013 FILED BY THE RESPONDENTS IN OA 715/2013 BEFORE CAT, ERNAKULAM BENCH.

P12 : COPY OF ORDER DATED 28.03.2014 IN OA 715/2013 OF CAT, ERNAKULAM BENCH.

//TRUE COPY//

PA TO JUDGE.

THOTTATHIL B.RADHAKRISHNAN &
K.HARILAL, JJ.

.....
OP(CAT) No.1 of 2015
.....

Dated this the 6th day of January, 2015.

J U D G M E N T

Thottathil B.Radhakrishnan, J.

- 1.We have heard the learned counsel for the petitioner and the learned standing counsel for the Employees State Insurance Corporation, quite in extenso.
- 2.Petitioner challenges a decision of the Central Administrative Tribunal. She has invoked Article 227 of the Constitution of India impeaching the Tribunal's refusal to grant her the relief that she has sought in the original application before the Tribunal; that is to say, a claim that she be granted interest on, what she called as belated payment of retiral benefits.
- 3.On hearing the learned counsel on both sides, we see that this is not a case of an employee getting superannuated. She had applied for voluntary retirement. The request for voluntary

retirement was not considered in time, according to the petitioner. She, therefore, filed an earlier proceedings before the Tribunal. Pending that, the voluntary retirement request was accepted by the ESI Corporation on 13.12.2010. Following that, arrear of salary was disbursed on 23.03.2011; DCRG/commutation of pension and provident fund amounts were released on 25.07.2011. Withheld DCRG was released on 16.12.2011 and earn leave encashment was on 09.10.2012. With this sequence of events, the learned Tribunal has applied its mind and considered the issue as to whether the petitioner was entitled to an order for payment of interest. No statutory provision enables the petitioner to claim interest on a statutory basis. The precedent law governing the field is based on principles of equity. The Tribunal also noted that even in the earlier round, the claim for interest was raised, but did not bear fruit. Even if that is of no consequence, we see that the Tribunal had applied its mind and came to the conclusion that the retiral benefits due were released to the applicant within a reasonable time and therefore no interest

is payable. This decision of the Tribunal and the resultant dismissal of the original application do not warrant interference in exercise of authority under Article 227 of the Constitution of India. We see no illegality or jurisdictional error in the impugned order. This original petition, therefore, fails.

In the result, this original petition is dismissed in limine.

(THOTTATHIL B.RADHAKRISHNAN, JUDGE)

(K.HARILAL, JUDGE)

jg