

OP(KAT) No.217 of 2022

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDHAN

&

THE HONOURABLE MR. JUSTICE HARISANKAR V. MENON

WEDNESDAY, THE 10TH DAY OF JULY 2024 / 19TH ASHADHA, 1946

OP(KAT) NO. 217 OF 2022

AGAINST THE ORDER DATED 10.11.2021 IN OA NO.1070 OF 2018 OF
KERALA ADMINISTRATIVE TRIBUNAL, THIRUVANANTHAPURAM

PETITIONER:

A.D.BALASUBRAHAMANIAN, AGED 55 YEARS,
AYILAM VILLAGE KOTTAYI, PALAKKAD, PRESENTLY
RESIDING AT FLAT 3C CHELOOR PUSHPAK APPARTMENTS,
RAVIPURAM, KOCHI 682015, DY SUPERINTENDENT OF
POLICE, NOW ON DEPUTATION IN COCHIN SHIPYARD LTD.
AS VIGILANCE OFFICER, KOCHI -15, ERNAKULAM
KERALA, PIN - 682015.

BY ADVS.
AMALA.J.RAJ
S.JAYANT
RAJU GEORGE (KARUVATTA)
BALAMURALI K.P.
JEREES J.
PRASANTH N L
SHABNA RAHIM

RESPONDENTS:

- 1 STATE OF KERALA, ADDITIONAL CHIEF SECRETARY
TO GOVERNMENT, GOVERNMENT SECRETERIAT, HOME
DEPARTMENT, THIRUVANANTHAPURAM, PIN - 695001.
- 2 ADDITIONAL CHIEF SECRETARY TO GOVERNMENT (FINANCE)
ADDITIONAL CHIEF SECRETARY TO GOVERNMENT,
GOVERNMENT SECRETRAIAT, FINANCE DEPARTMENT,
THIRUVANANTHAPURAM, PIN - 695001.

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- 3 THE ACCOUNT GENERAL, (A&E)
THIRUVANANTHAPURAM, KERALA, PIN - 695001.
- 4 DIRECTOR GENERAL OF POLICE,
(KERALA POLICE CHIEF) POLICE HEAD QUARTERS,
VAZHUTHACAUD, THIRUVANANTHAPURAM,
PIN - 605036.

BY SENIOR GOVERNMENT PLEADER, SRI.BIJOY CHANDRAN

THIS OP KERALA ADMINISTRATIVE TRIBUNAL HAVING BEEN FINALLY
HEARD ON 10.07.2024, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

JUDGMENT**Harisankar V. Menon, J.**

The unsuccessful petitioner in O.A.No.1070 of 2018 before the Kerala Administrative Tribunal, Thiruvananthapuram (for short, the 'Tribunal') is the petitioner in this original petition filed under Article 227 of the Constitution of India. The respondents in the aforesaid original application before the Tribunal are the respondents herein also.

2. The short facts necessary for the disposal of this original petition are as under:

The petitioner was serving in the Kerala Police Department and was on deputation to the Cochin Shipyard Limited from 10.06.2002 to 10.01.2011 as Assistant Vigilance Officer. He was reverted to his parent Department and started drawing his pay from the Government of Kerala only from 19.01.2011 onwards. The petitioner was promoted in 2013 as Deputy Superintendent of Police and it was only then that he realised that his basic salary was much lower than that of some of his juniors in service and also some of those who have entered in service along with him. He realised that this was on account of the benefits of the two pay revisions of 2004 and 2009 not being extended to him. Therefore,

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representations were submitted for extending the benefits of the pay revisions of 2004 and 2009. The said representations have been rejected by various orders, taking the view that the option for pay revision ought to have been exercised within a period of six months from the date of return to the Police Department as envisaged in the relevant rules. In such circumstances, the petitioner preferred O.A.No.1070 of 2018, praying for a direction to respondents 1 and 2 to disburse his salary with a basic pay of Rs.29,180/-, with effect from 19.11.2013 considering the two pay revisions of 2004 and 2009.

3. The Tribunal, by its order dated 10.11.2021, found that the petitioner not having exercised the option for the pay revision benefits of 2004 and 2009 within the prescribed time, no benefits can be extended to him. Finding thus, the original application preferred before the Tribunal is rejected.

4. It is aggrieved by the above order of the Administrative Tribunal that the captioned original petition is filed before this Court.

5. We have heard the learned counsel appearing for the petitioner and the learned Government Pleader appearing for the respondents.

6. The only issue to be considered in this original petition is as regards the illegality or otherwise of the findings of the Tribunal to the effect that the petitioner is not entitled to the benefits of 2004 and 2009 pay revisions, since the option thereof has not been exercised within the prescribed time.

7. It is an admitted fact that the petitioner sought for the benefits of 2004 and 2009 pay revisions belatedly. He should have exercised the option for pay fixation at least within six months of his return to the Police Department, which has not been done in the present case. In other words, the claim made by the petitioner herein was a belated one. The Tribunal was, therefore, justified in rejecting the belated option for benefits, by the impugned order.

8. The captioned original petition is one filed under Article 227 of the Constitution of India. It is settled law that the power of judicial superintendence under Article 227 of the Constitution of India has to be exercised fairly and not for the correction of minor errors, even if any. The said power cannot be used as an appellate power in disguise.

9. Here the findings rendered by the Tribunal with respect to the claim made by the petitioner being belated cannot be found fault with. In such circumstances, we find no illegality in the

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impugned order issued by the Kerala Administrative Tribunal, Thiruvananthapuram. Resultantly, the captioned original petition is dismissed.

Sd/-

ANIL K.NARENDRAN
JUDGE

Sd/-

HARISANKAR V. MENON
JUDGE

In

APPENDIX OF OP(KAT) 217/2022

PETITIONER'S EXHIBITS:

EXHIBIT P1	TRUE COPY OF THE JUDGMENT DATED 10TH NOVEMBER 2021 IN OA NO 1070 OF 2018
EXHIBIT P2	TRUE COPY OF OA NO 1070 OF 2018 ALONG WITH THE ANNEXURES FILED BEFORE KERALA ADMINISTRATIVE TRIBUNAL, THIRUVANANTHAPURAM
EXHIBIT P3	THE TRUE COPY OF ANNEXURES A13 - A16 IN OA NO 1070/2018
EXHIBIT P4	TRUE COPY OF THE REPLY STATEMENT FILED BY THE FIRST RESPONDENT DATED 27/07/2019
EXHIBIT P5	TRUE COPY OF THE ADDITIONAL REPLY STATEMENT FILED BY THE FIRST RESPONDENT DATED 01/07/2020 PRESENTED ON 02.07.2020
EXHIBIT P6	THE TRUE COPY OF THE STATEMENT FILED BY THE 3RD RESPONDENT
EXHIBIT P7	TRUE COPY OF THE CERTIFICATE ISSUED BY THE COCHIN SHIPYARD EVIDENCING THE FACT THAT THE PETITIONER WAS THE ONLY OFFICER WHO WAS ON DEPUTATION FROM POLICE DEPARTMENT SERVING IN HIS INSTITUTION FROM THE PERIOD 2002 TO 2010
EXHIBIT P8	TRUE COPY OF G.O(P)NO 85/2011/FIN DATED 26-02-2011
EXHIBIT P9	TRUE COPY OF G.O(P) 176/2012/(56)/FIN DATED 24TH MARCH 2012
EXHIBIT P10	TRUE COPY OF REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 04/06/2024 .
EXHIBIT P11	TRUE COPY OF POSTAL RECEIPT DATED 04/07/24.