

**ARMED FORCES TRIBUNAL, REGIONAL BENCH, KOCHI**

T.A.NO.117 OF 2009  
[W.P.(C) No.77 of 2007 of the Hon'ble High Court of Kerala at Ernakulam]

WEDNESDAY, THE 18TH DAY OF JANUARY, 2012/28th POUSHA, 1933

CORAM:

HON'BLE MR. JUSTICE JANARDAN SAHAI, MEMBER (J)

HON'BLE LT.GEN.THOMAS MATHEW, PVSM, AVSM, MEMBER (A)

K.V. RAJAN, S/O.KUMARAN,  
EX.IRO. (TAC) No.096585 N,  
"THEJAS", NEAR ELECTRIC OFFICE,  
EACHUR, P.O. EACHUR – 670 591,  
KANNUR DISTRICT.

**APPLICANT/PETITIONER:**

BY ADV. SRI. GRACIOUS KURIAKOSE

***versus***

1. UNION OF INDIA, REPRESENTED BY THE  
SECRETARY TO GOVERNMENT, MINISTRY OF DEFENCE,  
NEW DELHI – 110 011.
2. CONTROLLER OF DEFENCE ACCOUNTS (PENSIONS)  
ALLAHABAD.
3. THE OFFICER IN CHARGE, (S.O., PENSION),  
BUREAU OF SAILORS, CHEETAH CAMP,  
MANKHURD, MUMBAI – 400 088.

**RESPONDENTS/RESPONDENTS:**

R1 TO R3 BY SR. PANEL COUNSEL SRI. S. KRISHNAMOORTHY

**ORDER**

**Janardan Sahai, Member (J):**

According to the applicant, he was in the service of Indian Navy for 12 years from 26.3.1970 to 30.11.1981, out of which two years was as Boy Service. The applicant has also stated in the T.A. that he wanted to

continue in service, but was discharged from service on the ground "engagement expired". The applicant aggrieved by the denial of service pension filed a writ petition in the Kerala High Court challenging the order dated 2.2.2006, Ext.P3, passed by the Bureau of Sailors, Cheetah Camp, Mankhurd, Mumbai denying him pension on the ground that he had rendered service for only 11 years 8 months and 4 days while the minimum Qualifying Service to earn service pension is 15 years as per Regulation 78 of the Navy (Pension) Regulations, 1964.

2. The respondents filed a counter affidavit in the High Court in which they have stated that the applicant was enrolled in the Indian Navy on 26<sup>th</sup> March, 1970 as a Boy and was discharged from service on 30<sup>th</sup> November, 1981 on expiry of initial engagement and he had rendered only 11 years, 8 months and 5 days (including boy service) of Qualifying Service and even though the applicant was permitted to re-engage further to complete the pensionable service, he expressed his unwillingness to sign for further service vide Unwillingness Certificate dated 2<sup>nd</sup> April, 1980, copy of which has been filed by the respondents as Ext.R1. In paragraph 3 of the counter affidavit, the respondents have further stated that the applicant had also applied for re-settlement transfer vide letter dated 9<sup>th</sup> April, 1980, marked as Ext.R2. The respondents have stated that the applicant was

thereafter sanctioned service gratuity amounting to ₹ 3910/- for the service by him in the Navy at the time of discharge.

3. It appears that the applicant did not file any rejoinder affidavit to controvert the averments made in the counter affidavit. Even otherwise, according to the case of the applicant himself, the total service rendered by him was far less than 15 years.

4. The papers of this case have been transmitted to the Tribunal from the High Court after the establishment of the Tribunal. The applicant is represented by a counsel Sri.Grashious Kuriakose, but he has not turned up today, eventhough the matter is listed for hearing, although he was appearing on earlier posting days.

5. We have gone through the averments in the petition as also the counter affidavit, and have heard the learned Senior Panel Counsel Mr.Krishnamoorthy. In this case, the validity of the provisions of Rule 78 of the Navy (Pension) Regulations 1964 have not been challenged. The applicant has only challenged the correctness of Ext.P3 and has prayed for quashing thereof and has also prayed for a declaration that the applicant is entitled to get service pension for the service rendered by him in the Indian Navy. He has also prayed for a direction to the respondents to pay him service pension and other pensionary benefits for the service rendered by him in the Indian Navy. Regulation 78 of the Navy (Pension) Regulations

reads as follows:

*"78. Minimum qualifying service for pension.- Unless otherwise provided, the minimum service which qualifies for service pension is fifteen years."*

A plain reading of the above provision indicates that the minimum qualifying service for grant of service pension is 15 years. Even according to the applicant's own case, he has rendered only 12 years service. The applicant is therefore not eligible for grant of any service pension. For these reasons, we do not find any illegality in Ext.P3 order.

The T.A. lacks merit and it is accordingly dismissed.

Sd/-  
LT. GEN. THOMAS MATHEW,  
MEMBER (A)

Sd/-  
JUSTICE JANARDAN SAHAI,  
MEMBER (J)

DK.

(True copy)

Sd/-  
Prl. Private Secretary