

(10)

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No.256 of 2002

New Delhi, this the 15th day of January, 2003

HON'BLE MR.KULDIP SINGH, MEMBER(JUDL)

1. Shri Pratap Singh Rawat  
S/o Late Shri Dev Singh  
R/o Quarter No.1474 Sector-5,  
R.K. Puram,  
New Delhi-110 022.
2. Shri Alam Singh Rawat  
S/o Late Shri Govind Singh  
R/o 24/284, P.K. Road,  
New Delhi-110 001. ....Applicants

(Both working as Security Guard  
at DGAIR (Hqrs.)

(By Advocate: Shri S.Y. Khan)

Versus

Union of India through

1. The Director General of  
All India Radio,  
Parliament Street,  
New Delhi-110 001.
2. Chief Executive Officer,  
Prasar Bharti,  
New Delhi.

-RESPONDENTS

(By Advocate: None for the respondents)

O R D E R

By Hon'ble Mr.Kuldip Singh, Member(Judl)

This is a joint OA filed by two applicants who are ex-servicemen who had joined civil service with the respondents. Applicant No.1 when discharged from Indian Army was drawing Rs.263/- per month and applicant No.2 was getting Rs.270/- per month. Both of them joined as Security Guards in All India Radio and on joining the civil post, their pay was fixed at the minimum of pay scale for the post of Security Guard. The case of the applicants is that DOP&T issued instructions vide their OM dated 12.10.1988 for pay fixation of all ex-servicemen.

(11)

pensioners, the same is to be revised by non-deduction of pension equivalent of gratuity w.e.f. 1.6.88 though re-employed before that date. Thus it is submitted that the pay of the applicants are to be revised by grant of increments equal to number of years served in the army, but the respondents have failed to refix their pay.

2. The applicants further claim that the respondents allowed the said benefit to the similar placed persons, namely, S/Shri Sultan Singh, Avtar Singh, Prem Ballabh and Jodh Singh. The applicants also claim that they had made representations in accordance with the OM dated 12.10.1988, but their representations had been rejected.

3. The respondents are contesting the OA. The respondents admit that both the applicants are ex-servicemen and were employed as Security Guards in the minimum of the pay scale, i.e., Rs.750/- per month in the pay scale of Rs.750-12-870-14-940 and at the time of their initial appointment their pay was accordingly fixed in accordance with the DOP&T order dated 31.7.1986. According to the DOP&T's order dated 31.7.1986, re-employed pensioners were allowed to draw pay only in the prescribed scales of pay of the posts in which they are re-employed. No protection of scales of pay of the posts held by them before the date of retirement shall be given and in all those cases where pension is fully ignored, the initial pay on reemployment shall be fixed at the minimum of the scale of pay at the re-employed posts.

km

4. The counsel for the applicants also relied upon Memo dated 12.10.1998 and submitted that as per Office Memo dated 12.10.1998, Annexure A-1, a clarification has been issued that the matter has been carefully examined and the President has been pleased to decide that the provisions of Para 2 of the DOP&T OM dated 3.6.88 will also extend to persons already re-employed prior to 1.6.88 in whose case PEG was taken into account for initial pay fixation and their pay would, therefore, require to be refixed w.e.f. 1.6.88. In the present case both the applicants retired from Army Service before attaining the age of 55 years and have been reemployed as Security Guard w.e.f. 8.3.87 and 11.8.87 respectively.

5. The plea of the respondents is that since the applicants were holding the post below the commissioned officers rank and their pension equivalent of gratuity and other forms of retirement benefits shall have to be ignored for the purpose of initial fixation of their pay in the re-employed posts and in the case of both the applicants their pension have been ignored, so their pay have to be fixed at the minimum of the pay scale, as such it is stated that DOP&T's OM dated 12.10.1988 does not apply in the present case of the applicants.

6. As regards the other employees are concerned, it is submitted that they were employed prior to 1.7.86 and their cases were considered as per earlier order.

7. The earlier order prescribed that in case where it is felt that the initial pay of the re-employed

lcr

officer if fixed at the minimum of the prescribed pay will cause undue hardship, then the pay may be fixed at a higher stage by allowing one increment for each year of service which the officer has rendered before retirement in a post not lower than that in which he is being employed, it is submitted that since the order dated 12.10.1988 does not apply to the case of the present applicants, so their pay have been rightly fixed.

8. I have heard the learned counsel for the applicants and gone through the records of the case.

9. In the rejoinder the applicants relied upon paragraph 4(d) of the OM dated 31.7.1986 (Annexure R-I). Paragraph 4 (d) is reproduced hereinbelow for easy reference:

"4(d) In the case of persons retiring before attaining the age of 55 years and who are re-employed, pension (including pension equivalent of gratuity and other forms of retirement benefits shall be ignored for initial pay fixation to the following extent: (i) in the case of ex-servicemen who held posts below commissioned officer rank in the Defence Forces and in the case of civilians who held posts below Group 'A' posts at the time of their retirement, the entire pension and pension equivalent of retirement benefits shall be ignored.

(ii) In the case of service officers belonging to the Defence Forces and Civilian pensioners who held Group 'A' posts at the time of their retirement, the first Rs.500/- of the pension and pension equivalent of retirement benefits shall be ignored".

11. The perusal of the above would show that in case of ex-servicemen who held posts below commissioned officer rank in the Defence Forces and in the case of civilians who held posts below Group 'A' posts at the time of their retirement, the entire pension and pension

*JKR*

equivalent of retirement benefits has to be ignored and their pay has to be fixed at the minimum of the pay scale in the post they joined the service at the time. So this paragraph 4(d) also does not help the applicants and even the OM dated 12.10.1988 does not help the applicants because it also says that their pay is required to be fixed by ignoring the element equivalent to gratuity and in this case since the pay of the applicants have been fixed by ignoring the entire element of retiral benefits so there is no rule which provide that the applicants have to be given any additional increments.

12. Hence, I find that the pay of the applicants have been rightly fixed. OA is devoid of any merit and the same is dismissed. No costs.

*Kuldeep Singh*  
(KULDIP SINGH )  
MEMBER(JUDL)

/Rakesh