

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA No. 50/98

(18)

New Delhi, this the 10th day of May, 1999

HON'BLE SHRI T. N. BHAT, MEMBER (J)
HON'BLE SHRI S.P. BISWAS, MEMBER (A)

Shri B.P. Shukla,
s/o late Shri Ram Narain Shukla,
r/o WZ-5/12, New Mahabir Nagar,
Gali No. 7,
New Delhi - 110 018.

...Applicant

(By Advocate: Shri R.K. Shukla)

Versus

Union of India through

1. Secretary,
Ministry of Agriculture,
Krishi Bhawan,
New Delhi.
2. Chief Soil Survey Officer,
All India Soil Land Use,
Survey
(Department of Agriculture)
IARI Building, PUSA,
New Delhi.
3. Under Secretary,
Department of Agriculture,
Ministry of Agriculture,
B Wing, 1st Floor, Shastri Bhawan,
New Delhi.

...Respondents

(By Advocate: Shri K.C.D. Gangwani)

O R D E R (ORAL)

Hon'ble Shri T.N. Bhat, Member (J):

The applicant in this OA is aggrieved by the act of the respondents in not re-fixing his pay correctly in accordance with the instructions contained in OM dated 11.4.1963 issued by the Ministry of Finance. The applicant who had earlier worked as a Combatent Clerk for 15 years in the Indian Air Force and was subsequently

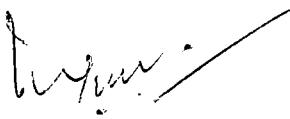
W.M.W./10.5.99.

(19)

re-employed in the grade of Lower Division Clerk in ^{the} office of R-2 on 15.04.1978 is also aggrieved by the fact that the service rendered in by him in the Indian Air Force has not been counted while re-fixing his pay.

2. The respondents have in their counter rightly taken the plea that on the applicant's appointment he was clearly asked to exercise his option and if he wanted the benefit of the service rendered in the Indian Air Force he was required not only to exercise the option but also to refund the benefits that he had already secured from the Air Force.

3. During the course of the arguments the learned counsel for the applicant has drawn our attention towards the applicant's letters at annexures A-1 & A-2 by which after a delay of more than a decade he had in pursuance to the letter dated 19.2.1997 issued by the respondents exercised his option for counting the service rendered by him in the Indian Air Force for the purpose of pension under Rule 19 of the CCS (Pension) Rules, 1972. However, we notice that even after such a great delay in exercising his option the applicant has not expressed his willingness to refund the benefits that he had already enjoyed nor has he surrendered the pension which he is getting from the Indian Air Force. We are, therefore, in agreement with the contention of the learned counsel for the respondents that unless the applicant not only expresses his willingness to surrender the aforesaid benefits but also actually surrenders or undertakes to surrender the same he cannot claim re-fixation of his pay under Rule 19 of the CCS (Pension) Rules.



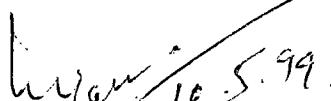
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4. In view of the above we dispose of this OA with a direction to the applicant to give an undertaking before the respondents that he would surrender the benefits already secured by him and fulfill the other conditions mentioned in the Govt. of India, Ministry of Finance OM dated 25.11.1958 and the subsequent OM dated 11.4.1963 as amended from time to time upon which the respondents shall pass necessary ordersrefixing the applicant's pay. The applicant shall perform his part of the direction within two months from today and the respondent no. 2 shall pass appropriate orders within two months thereafter.

With the above order the O.A. is disposed of.


 S.P. Biswas
 Member (A)

naresh


 T.N. Bhat
 Member (J)