

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A./T.A. No. 1182/96 /19 Decided on: 31.1.97

K.D. Mitha

..... APPLICANT(S)

(By Shri S.K. Sinha Advocate)

VERSUS

The Principal Director
D.G. of Security Cab. Sectt. & Ors. RESPONDENTS

(By Shri Vijay Mehta Advocate)

CC RAM

THE HON'BLE SHRI S.R. ADIGE, MEMBER (A)

THE HON'BLE ~~SHRI~~ DR. A. VEDAVALLI, MEMBER (J)

1. To be referred to the Reporter or not? Yes
2. Whether to be circulated to other Benches of the Tribunal ? No

Adige
(S.R. ADIGE)

Member (A)

(2)

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

NEW DELHI.

O.A.No. 1182/96

New Delhi: this the 31st day of January, 1997.

HON'BLE MR.S.R.ADIGE MEMBER(A).

HON'BLE DR.A.VEDAVALLI MEMBER(J).

K.D.Mitha,
Asstt. Technical Officer(Retd),
Aviation Research Centre,
Directorate General of Security,
Cabinet Sectt.

R/o Flat No.164,
Sector-III, Type -4,
R.K.Puram,
New Delhi.

.....Applicant.

(By Advocate: Shri S.K.Sinha)

Versus

1. The Principal Director,
Directorate General of Security,
Cabinet Secretariat,
Govt. of India,
Block-V(East), R.K.Puram,
New Delhi- 66.

2. Director of Accounts,
Office of the Director of Accounts,
Cabinet Secretariat,
East Block-IX,
Level-VII, R.K.Puram,
New Delhi.

3. The Deputy Director(L),
Aviation Research Centre,
Directorate General of Security,
Cabinet Sectt. Block-V(East),
R.K.Puram,
New Delhi-66,

4. The Sr. Section Officer, ITC,
Cabinet Sectt.,
Office of Director of Accounts,
East Block No.IX,
Level-7,
R.K.Puram,
New Delhi

.....Respondents.

(By Advocate: Shri Vijay Mehta).

JUDGMENT

BY HON'BLE MR.S.R.ADIGE MEMBER(A).

Applicant seeks a direction to
respondents not to refix his pay after reducing the

enhanced reservist pension and for quashing of (i) orders dated 19.12.95 (Annexure-AI Dolly) and (ii) pension payment order dated 23.4.96 (Annexure-AI Dolly) to the extent it orders for recovery on account of refixation of pay. A direction is also sought to respondents to refund the amount already recovered from salary/ arrears payable to the applicant with interest @ 18% p.m. and also to pay interest of like amount on withheld retiral benefits.

2. Applicant who joined the Indian Navy as a Sailor on 19.6.54, upon discharge from there joined Dts. of Co-ordination Police Wireless, MHA as Radio Operator on 5.3.63, and has retired on superannuation on 31.3.96. As an exserviceman the applicant was the recipient of a pension which was enhanced from time to time, and was increased to Rs. 375/- w.e.f. 1.1.86. The applicant's pay was not fixed till his retirement, but early in 1995 came to know that respondents are seeking to refix his pay after deducting Rs.325/- p.m. w.e.f. 1.1.86 (Rs. 375.00 minus reservist pension of Rs.50.00); have made recoveries accordingly out of the arrears payable to the applicant and are also determining his retiral benefits. His representations not having been of any avail, the applicant has filed this OA.

3. We have heard applicant's counsel Shri S.K.Sinha and respondents' counsel Shri V.K. Mehta. Shri Sinha has invited our attention to the CAT Chandigarh Bench judgment dated 22.8.95 in OA No.360/HP/94 Gian Chand Vs. UOI & others and CAT Principal Bench judgment dated 8.5.95 in O.A.No.1942/94 K.R.Dogra Vs. UOI & others wherein following the judgment of the Hon'ble Supreme Court in UOI & others Vs

(A)

G. Vasudevan Pillai & others AID 1995(1) 311 wherein it had been held that reduction of pay equivalent of enhanced pension of those ex-servicemen who were holding civil posts on 1.1.86 following their re-employment was legally impermissible, both OA's were allowed; respondents were directed to restore and refix those applicants' pay ignoring in full the military pension payable to them; refunded the recoveries already made; and recalculate and disburse the pensionary benefits on the pay and allowances so recalculated within 3 months. SLP No.1615/96 and No.1602/96 filed by the UOI against those two judgments were dismissed by the Hon'ble Supreme Court, both on 7.10.96. In both these orders, the Hon'ble Supreme Court relied upon their judgment in Vasudevan Pillai's case (Supra).

4. Like Shri Gian Chand, the applicant who is an ex-serviceman was also holding a Civil post on 1.1.86 following his re-employment, and the ratio of the judgments cited above would squarely apply in the applicant's case also.

5. Under the circumstance this OA is allowed. The impugned orders dated 19.12.95 and 23.4.96 are quashed and set aside. Respondents are directed

- i) to restore and refix the applicant's pay after ignoring in full the pension paid to him.
- ii) to refund to him any recoveries already made.
- iii) to recalculate and disburse the applicant's pensionary benefits on the refixed pay and allowances.
- iv) comply with these directions within 3 months from the date of receipt of a copy

(V)

of this judgment.

The prayer for interest and costs is rejected as there is no deliberate delay or wilful lapse on the part of respondents. No costs.

A. V. Adige

(DR.A. VEDA VALLI)
MEMBER(J).

S. R. Adige

(S. R. ADIGE)
MEMBER(A).

/ug/