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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

18
O.A.No.968 of 1994

New Delhi, this 4th day of December.1998.

HON'BLE SHRI K. MUTHUKUMAR, MEMBER(A)
HON'BLE SHRI J.S. DHALIWAL, MEMBER(J)

Raj Kumar Sharma
S/o Shri Diwan Chand Sharma
R/o H.No.113 Prem Nagar
Ambala City-143003
HARYANA. Applicant

Applicant in person.

versus

Union of India, through

1. The Secretary
Ministry of I&B
Shashtri Bhavan
New Delhi. Respondents
2. Director
CPC. Doordarshan
Siri Fort
New Delhi-49. Respondents

By Advocate: Shri S.M. Arif

O R D E R (oral)

HON'BLE SHRI K. MUTHUKUMAR, MEMBER(A)

In this application the applicant has prayed that his past Military Service rendered before his present re-employment, be counted for pension and other purposes and that in fixing his pay in the re-employed post, one advance increment for each completed year of service in the Armed Forces should also be granted to him. He has also prayed for confirmation as he has completed his probation in the re-employed post. The applicant

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has also filed MA.3029/97 praying for early hearing of this application where he has reiterated the reliefs as mentioned above.

2. The respondents in their reply which was filed earlier, had submitted that the applicant did not come under the definition of "Ex-Serviceman" within the meaning of rules relating to fixation of pay of re-employed pensioners as he was discharged from the Armed Forces at his own request in 1979 before fulfilling the condition of his enrolment and therefore he was not entitled to the benefits of ex-serviceman. However, as a result of the further examination of this matter and also in the light of the clarification given by the Defence Ministry which was shown to us by the applicant and which is taken on record here, the respondents also seem to have accepted that he is entitled to be considered as ex-serviceman.

3. In the reply to MA.3029/97 filed by the respondents, they have admitted that the applicant has been confirmed in the post after completion of his probation with effect from 4.2.92. They have also admitted that the services rendered by the applicant in the Military has been approved by the respondents for the purpose of pension and retirement benefits subject to the outcome of the present OA. They have also admitted the counting of Military Service with effect from 9.1.68

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to 23.3.79 which is stated to have been approved by the competent authority excluding the non-qualifying service in the Armed Forces from 29.5.74 to 30.5.74, 18.9.74 to 1.12.74, 3.2.77 to 1.3.77 and 15.1.79 to 18.1.79 for the purpose of pension/retirement subject to the outcome of this OA. In regard to the pay fixation in the re-employed post, however, the respondents have stated that the counting of Military Service for the purpose of pay fixation, is not permissible in terms of the provisions of the CCS(Fixation of Pay of Re-employed Pensioners) Rules of 1986 according to which, with effect from 1.7.86 re-employed pensioners are to be allowed to draw pay only in the prescribed scale of pay of the post in which they are employed. It is respondents' case that the applicant's pay has been fixed in accordance with the rules correctly in the pre-revised scale of Rs.2000-3200 as shown in their letter dated 7.6.95.

4. The applicant who argued this case in person, has submitted that the respondents themselves have been allowing advance increments for the past service rendered in the Armed Forces at the rate of one increment for every completed year of service and he has shown similar fixation done in the case of one Shri Satbir Singh under the same respondent. We have seen that order annexed as Annexure-3 to MA.3029/97 according to which, the said fixation has been done in terms of Rule 19 of

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the CCS(Pension) Rules and Rule 15 of the Fixation of Pay of Re-employed Pensioners. The respondents however, have not accepted this plea as seen from para-8 of the MA.

5. We have heard the applicant and also the learned counsel for the respondents. We have also seen Rule 15 of the Fixation of Pay of Re-employed Pensioners Rules according to which, ex-servicemen who are not granted pension and/or service gratuity, on their appointment to Government service, they may be granted advance increments equal to the completed years of service rendered by them on a basic pay equal to or higher than the minimum of the scale attached to the civil post in which they are employed. The pay so arrived at should not, however, exceed the basic pay drawn by them in their previous employment.

6. In the facts and circumstances, we are of the considered view that it is necessary to give an appropriate direction to the respondents to re-examine the entitlement in regard to the fixation of pay of the applicant in the re-employed civilian post in terms of Rule 15 of the Fixation of Pay of Re-employed Pensioners Rules.

7. We also note that the applicant has made a clear averment in his application that he had been released from Armed Forces service without drawing any pension. In the light of this, we dispose of

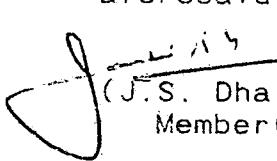
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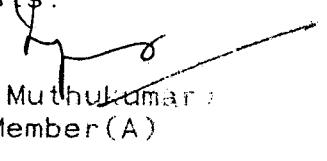
this application with following directions:

8. The respondents are directed to reconsider the fixation of pay of the applicant in the re-employed civilian post and examine whether he is entitled to the benefit of Rule 15 of the Fixation of Pay of Re-employed Pensioners Rules, taking into account the facts and circumstances of his case and also in the light of the orders passed by the respondents in respect of another case, i.e. the case relating to Shri Satbir Singh (Annexure-3 to MA.3029/97) and take a decision in this behalf and pass a reasoned and speaking order within a period of two months from the date of receipt of a copy of this order. If the applicant is found eligible for fixation of pay granting him the advance increments as provided under the rules, such a fixation of pay may also be done within one month thereafter and necessary orders in this behalf may also be issued and arrears paid to the applicant accordingly thereafter.

9. Since other reliefs are already stated to have been allowed by the respondents, no further order is required in this behalf.

10. The application is disposed of with the aforesaid directions. No order as to costs.


(J.S. Dhaliwal)
Member (J)


(K. Muthukumar)
Member (A)