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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. 77/89

New Delhi this the 8th day of February, 1994.

HON'BLE SHRI J.P. SHARMA, MEMBER (J)
HON'BLE SHRI B.K. SINGH, MEMBER (A)

Shri Suraj Pal Singh,
S/o Shri Madan Lal
Postal Assistant,
Head Post Office Moradabad
R/o Mohalla Harthala,
MORADABAD (U.P.) ... Applicant

(Advocate : None for the Applicant)

Versus

1. Union of India, through
Secretary (Posts)
Ministry of Communications,
Government of India,
New Delhi-110001.
2. The Sr. Supdt
Post Offices Moradabad Division,
Moradabad-224001
3. The Post Master General,
U.P. Circle,
PMG Office,
Hazratganj,
Lucknow-226001.
4. The Director General,
Posts & Telegraphs Department
New Delhi-110001. ... Respondents

(Advocate : Ms Raj Kumari Chopra)

ORDER (Oral)

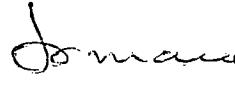
Hon'ble Shri J.P. Sharma, Member (J)

The applicant has claimed certain fixation of pay on the basis of earlier Army service. He was initially recruited as Non-combatant clerk in the Postal department and subsequently retired as Hav. clerk on 19.09.1982. He was appointed as postal clerk on 13.02.1982 and according to him he was not given full benefit of 16 years of service he has put in the Army.

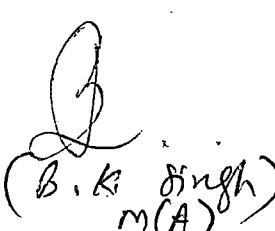
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2. None appears for the applicant.
3. The application is, therefore, dismissed for non-prosecution. No costs.


(B.K. SINGH)
MEMBER (A)


(T.P. SHARMA)
MEMBER (J)

'Kalara'
08.02.1994

Date	Office Report	Orders
	17/5/94 A-5 MAs 1326, 1327/94 OA. 77/89	Present: Mr. Dusayal Singh, applicant in person.
		Issue notice on the MAs 1326 & 1327/94 in OA 77/89 to the respondents to file their reply within four weeks.
		List the matter on 5/7/94.
	1/100000 S/Complete Reply not filed /C	 (B.K. Singh) M(A)  (J.B. Sharma) M(J)
		<u>5.7.1994</u> <u>MAs-1326 & 1327/94</u> Present: Applicant in person. The applicant is posted at Moradabad. When the matter came for hearing on 8.2.94, the applicant could not present himself and the O.A. was dismissed for non- prosecution in default of the applicant. Through the aforesaid MAs the applicant has prayed for condonation of delay which has been caused in moving the application to set aside the aforesaid order of 8.2.1994 passed in his default. A notice was sent to the respondents and none is present in spite of service being reported to be complete. We have gone through the affidavit filed along with the MA and also the ground

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Date	Office Report	MAS-1326, 1327/94 Orders
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taken for condoning the delay. We are satisfied that there was reasonable and substantial cause for non-appearance of the applicant on the date when the case was taken up on 8.2.1994. The MAS, therefore, are allowed and the order dated 8.2.1994 is set aside and O.A. 77/89 is restored to its original number.

The O.A. now be listed for final hearing on 2.8.1994. Notice be sent to the respondents informing the date for final hearing.

/as/

Adige
(S. R. Adige)
Member (A)

Da
(J. P. Sharma)
Member (J)

5-8-94

O.A. 77/89

Present: Sh. Suraj Pal Singh
Scrn, ~~Scrn~~ In person.

Argument heard & concluded.
~~Order~~ ~~Decided~~. List on
19.8.94 for order in open
court.

14-8-94.

B.O.
KSH
GOLW

Order Decided in
the open court today.

KSH
GOLW

(11)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. NO. 77/89

New Delhi this the 19th Day of August, 1994

Hon'ble Shri J.P. Sharma, Member (J)

Hon'ble Shri P.T. Thiruvengadam, Member (A)

Shri Suraj Pal Singh,
Son of Shri Madan Lal,
Postal Assistant, fice.
Head Post Office Moradabad,
R/o Mohalla Harthala,
Moradabad (UP).
... Applicant

(Applicant in person)

Vs

Union of India through

1. The Secretary (Posts),
Ministry of Communications,
Govt. of India,
New Delhi-110 001.
2. The Sr. Supdt. Post Offices,
Moradabad Division,
Moradabad.
3. The Post Master General,
UP Circle, PMG Office,
Hazarat Ganj,
Lucknow.
4. The Director General Posts & Telegraphs,
New Delhi-110 001. ... Respondents

(By Advocate : Ms. Raj Kumari Chopra)

O R D E R

Hon'ble Shri J.P. Sharma, Member (J)

The applicant was recruited in the Army as Clerk in 1965 and he retired as Havildar Clerk in September, 1992. As an ex-serviceman he was given re-employment as Postal Assistant on 13.6.1983 and he was fixed in the scale of Rs. 260-360. In July 1983 he requested the SSP Moradabad Division for issuing order for refixing his pay and allowance. The last pay drawn by

the applicant as Havildar Clerk was Rs. 315/- basic pay, classification Rs.37.50, Goods Service Rs. 12/-, total Rs. 364/50.

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The grievance of the applicant is that his pay was wrongly fixed in the initial of the pay scale of Rs. 260-360. His 12 years of Military Service has been ignored. The applicant made representation and he was informed on 28.11.1985, that his case will be taken up for re-fixation of pay after his confirmation in service. There after in August 1986 the option was called from the applicant regarding his fixation of pay. The opinion asked from the applicant was whether he wants the benefit of GIMF OLM dated 11.4.1963 or for Ministry's OM dated 25.11.1958 for refixation in Civil Department. The applicant has opted for the terms and conditions laid in GIMF OM dated 25.11.1958. The applicant was informed by the Sub Post Master, Moradabad by the letter dated 3.12.1987 and SSPO Moradabad has instructed by the letter dated 23.12.1987 that PMG considered the matter and it was decided that the applicant is not entitled to the benefit of pay fixation under FR 27 in terms of DG's letter dated 30.12.1985. The applicant continued to make representation but to no effect and he filed the present application in January 1989 and prayed for the grant of the reliefs that a direction be issued to the respondents to refix the pay of the applicant at Rs. 360/- at the time of first appointment in postal department alongwith the cost of the application and arrears of the salary.

The respondents contested the application and opposed the grant of the relief on the ground that the applicant cannot get the benefit under FR 27. The option dated 26.8.1983 was not applicable in the case of the applicant as it was exercised

under Rule 18(1)(A) of CCS Pension Rules, 1972 which is applicable to Civil Employees on their re-employment but in no way related to Defence Personnel. FR 27 is to the effect that subject to any general or special orders that may be the precedent in this behalf, an authority may grant a pre-mature increment to the Government servants on a time scale of pay if it has power to create a post in the same cadre on the same scale of pay. It is stated by the respondents that where re-employed pensioners are asked for refixation of pay under 1983 orders, his pay should be fixed at the minimum of scale.

The question of grant ^{of} advance increment arises only if there is any hardship. Since the applicant was getting Rs. 364/50 in the defence service and on retirement he was granted pension of Rs. 179/- p.m. and was paid DCRG pension equivalent which comes to Rs. 102/46 i.e. he was getting Rs. 281.46. He was given a pay scale of Rs. 260/- and the total emoluments comes to Rs. 541.46. This amount exceeds his last pay drawn Rs. 364/50 (Rs. 315 + Rs.37 + Rs. 12). Thus, no hardship was caused to the applicant and FR 27 is not applicable. Thus the applicant has no case.

We heard the applicant in person and also gone through the record of the case regarding the fixation of pay of ex combatant clerk. In fact the applicant is under the impression that he should be given the fixation of pay in the scale of Rs. 260-360 after allowing 12 increments counting past army service which is not permissible under the rules. In fact the OM of GIMF of 1958 also lays down that only in the case of hardship advance increments can be allowed. It is especially laid down that re-employed pensioners be allowed only the prescribed scales of pay. The OM dated 8.2.1983 issued by the Defence is with respect to ignoring of the part of their pension of the re-employed pensioners. This is not applicable to the

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applicant. The respondents in their reply have clearly stated that the applicant is not entitled to the grant of additional increments because the last pay drawn by him in the Army was less than the total emoluments including pension paid to the applicant. The applicant has drawn certain analogy with Shri Kartar Singh but that will not make a rule for fixation of pay of the applicant. The respondents have duly considered the case of the applicant and found that the applicant cannot be granted the benefit which he has claimed. The letter of PMG, UP Circle, Lucknow is reproduced below:

"Copy of the PMG UP Circle Lucknow letter No.

ACB/M-7/2041/84/1 dated at Lucknow the 27.5.1987.

Subject: Pay fixation case of Shri Suraj Pal Singh
Saini postal Asstt. Moradabad (No.
6643638 Ex Hav)

Ref: Your No. BT-634 dated 22.12.1986

Kindly refer to your letter cited above dated 22.12.1986 regarding subject noted above wherein it has been furnished that the official was appointed in Postal Department as PA on 13.8.1983 (para 2) and opted for the benefit of Govt. of India Ministry of Finance Office Memorandum 8(34)Estt. III/57 dated 25 November 58 for pay fixation on dated 20.9.1986 (para 3) and the pay is shown fixed at the pay stage of Rs. 360/- w.e.f. 13.6.83 with DNI on 1.6.1984 the has been recommended by you for the approval of the DG Post.

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Before submitting the case to the higher authorities it has been examined at this stage with the following points:

(i) As the official did not exercise his option under the provision of para 5 below appendix 7 (vide No. GI MHA (Dept. of P&AR) OM No. F2(28) Est. (P II/80 dated 19.10.81) below FR-27 for refixation of pay in his reappointment in P&T Deptt. (i.e. within three months from the date of his reappointment). He cannot be given any benefit for advance increment in fixation of his pay on his reappointment in PA Cadre.

The PMG had decided that the official concerned may be informed regarding his fault and the request of the official cannot be exceeded to.

The official may kindly be informed accordingly under intimation to this office please.

Sd/-

For Post Master General, UP

No. BT 634 dated at Moradabad the 4.6.1987
Forwarded to Shri Suraj Pal Singh Saini Postal
Asstt. Moradabad HO for information

Sd/-

For SSPOs Moradabad

Division Moradabad-244001

J

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Having gone through the above we do not find that there is a case of interference as the respondents have rightly fixed the pay of the applicant as a re-employed Combatant Clerk. The application, therefore, is dismissed as devoid of merit.

P. T. Thiruvengadam

(P.T. Thiruvengadam)
Member (A)

J. P. Sharma

(J.P. Sharma)
Member (J)

Mittal