

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH:

O.A. No. 256/1992

New Delhi this the 28th Day of April 1997

(B)

Hon'ble Dr. Jose P. Verghese, Vice Chairman (J)
Hon'ble Shri S.P.Biswas, Member (A)

Shri B.S.Dhull,
366 Sector 12,
R.K. Puram,
New Delhi-110 066

Applicant

(By Advocate: Shri A.P.Saurabh)

-Versus-

1. Union of India
through Director (P&A)
Ministry of Personnel, P.G & Pension
(Dept. of Pension & Training)
New Delhi.
2. Union of India,
through
Chief Administrative Officer & JT Secy.
Administration,
Ministry of Defence,
C-II Hutmants,
DHQ PO New Delhi- 110 011

Respondents

(By Shri J.S.Joshi, Dept.Representative)

O R D E R

Hon'ble Dr. Jose P. Verghese, Vice Chairman (J)

The applicant in this case was a Subedar Major (Honorary Captain) in the Indian Army and retired on 30.11.1986. He was appointed to the post of Programme Assistant (Group 'B' Non-Gazetted, non-Ministerial Post) in the office of the Deputy Director General of Management Information System, Army Headquarters under Ministry of Defence, in the pre-revised pay scale of Rs. 500-900 (revised scale of Rs. 1640-2900) on 27.3.1987 on re-employment basis. The terms of appointment, inter alia, provided that his pay was to be fixed in accordance with rules. In supersession of all the previous orders on the subject the initial fixation of pay and other benefits of re-employment of ex-servicemen pensioners,

was decided to be governed by the Central Civil Services (Fixation of Pay of Re-employed Pensioners) Orders 1986. This was issued on 31.7.1986. Accordingly all appointments made on or after the 1.7.1986, the pay of the re-employed pensioners is to be fixed in accordance with these orders only. The petitioner in this case has challenged the vires of these rules on the ground that the date fixed is arbitrary and it has adversely affected the payment otherwise due to him under the existing orders/rules. We have heard the petitioner at length and perused the record and we found that the orders under challenge are perfectly in order and the respondents shall have apply the same uniformly to all the persons appointed on or after 1.7.1986 and the petitioner alone cannot claim the benefits of previous rules/orders. The order 4 of the said order which relates to the fixation of pay of the re-employed pensioner is extracted herebelow:

- (a) Re-employed pensioners shall be allowed to draw pay only in the prescribed scales of pay for the posts in which they are re-employed. No protection of the scales of pay of the posts held by them prior to retirement shall be given.
- (b) (i) In all cases where the pension is fully ignored, the initial pay on re-employment shall be fixed at the minimum of the scale of pay of the re-employed post.
- (ii) In cases where the entire pension and pensionary benefits are not ignored for pay fixation, the initial pay on re-employment shall be fixed at the same stage as the last pay drawn before retirement. If there is no such stage in the re-employed post, the pay shall be fixed at the stage below that pay. If the maximum of the pay scale in which a pensioner is re-employed is less than the last pay drawn by him before retirement, his initial pay shall be fixed at the maximum of the scale of pay of the re-employed post. Similarly, if the minimum of the scale of pay in which a

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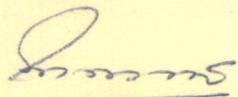
pensioner is re-employed, is more than the last pay drawn by him before retirement, his initial pay shall be fixed at the minimum of the scale of pay of re-employed post. However, in all these cases, the non-ignorable part of the pension and pension equivalent of retirement benefits shall be reduced from the pay so fixed.

- (c) The employed pensioner will, in addition to pay as fixed under para (b) above, shall be permitted to draw separately any pension sanctioned to him and to retain any other form of retirement benefits.
- (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 fixation of 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 to retirement benefits shall be ignored.
 - (ii) In the case of service officers belonging to the Defence Forces and Civilian pensioners who held the Group 'A' posts at the time of their retirement, the first Rs. 500/- of the pension and pension equivalent to retirement benefits shall be ignored."

2. The respondents stated that the ~~petitioner~~ have rightly fixed the pay of the petitioner in accordance with these rules as it has been done to all the persons appointed on or after 1.7.1986. The applicant who retired from the Army before attaining the age of 55 years and since he was holding the post below Commissioned Officer rank, his pay on re-employment to the post of Programme Assistant was fixed in accordance with Order 4(b)(i) cited above and thus the applicant's pay was fixed at Rs. 1640/- at the minimum of the scale of the re-employed persons. In addition to the pay so fixed the applicant was permitted to draw pension of Rs. 1700/- per month sanctioned to him on retirement from the Indian Army as also the other retiral

benefits. We are satisfied that the applicant's pay was fixed on re-employment in accordance with the rules applicable at the time of employment, and the petitioner's claim that his pay should be fixed on re-employment not in accordance with the above cited rules rather in accordance with the Government of India's decision No. 10 given below Article 510 of Civil Service Regularisation (Ministry of Finance - OM dated 25.11.1958) as amended from time to time. This being a pre-1986 orders for fixation of pay of re-employed pensioners, the request of the pensioner to apply the pre-revised 1986 rules was rightly rejected by the respondents. Petitioner made a representation to this effect and the same was duly considered and rejected by an order dated 8.6.1988.

3. In the premises, the application is rejected as devoid of any merit and no orders as to costs.



(S.P. Biswas)
Member(A)



(Dr. Jose P. Verghese)
Vice Chairman (J)

Mittal