

**Central Administrative Tribunal
Jaipur Bench, Jaipur**

**O.A. No.799/2016
M.A. No.268/2017**

Reserved on:17.08.2021
Pronounced on:25.08.2021

**Hon'ble Mr. Dinesh Sharma, Member (A)
Hon'ble Mrs. Hina P. Shah, Member (J)**

K.T.George son of Mr.K.V.Thomas, aged about 76 years, resident of Saraswati Colony, Baran Road, Gali No.4, House No.7, Kota. Post of Sepoy/ ...Applicant.

(By Advocate: Shri Rajvir Sharma)

Versus

1. Union of India, through its Secretary, Defense, Sena Bhawan, New Delhi.
2. Sr. Record Officer, Sena Seva Corps Abhilekh, Dakshin, ASCRecords (South) Bengaluru.
3. The Chief Manager, State Bank of Bikaner & Jaipur, Central Pension Processing Center (0170878), 2nd Floor, SMS Highway, Choura Rasta, Jaipur.

...Respondents.

(By Advocate: Shri N.C.Goyal)

ORDER

Per: Dinesh Sharma, Member (A):

This OA is filed by the applicant, a person about 75 years of age (at the time of filing the OA) seeking quashing of orders annexed at Annexures A/1, A/2 and A/3. The applicant has stated that, by these orders, the pension of the applicant, who retired as Driver from supply core, i.e department of civil

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defence in the year 1983, has been revised since 2006, and he is informed about recovery being made of the alleged overpayments. The applicant has challenged the revision and the recovery in the light of the Apex Court's judgment in **State of Punjab & Others vs. Rafiq Masih (White Washer)** (2015) 4 SCC 334 and has also prayed for interim relief of stay against these orders. Taking into account the prima-facie strong case of an employee belonging to Group 'C' and 'D', and the judgment of the Apex Court, a stay on recovery from the pension of the applicant was granted by this Tribunal's order dated 15.11.2016.

2. The respondents filed a reply in which a preliminary objection was raised about the jurisdiction of this Tribunal in cases related to service matters of the members of the Armed forces. It is stated that as per service records, No 6611479, Ex. Sepoy/Reservist KT George (the applicant) was enrolled in the Army on 15 October, 1962 with terms of engagement 10 years in colour and 10 years in reserve. On completion of his terms of engagement (under item III(i) of table annexed to Army Rule 13(3) of 1954), he was discharged from Reserve Service on 31.10.1982, and a PPO dated 19.05.1983 (Annexure R/1) was issued. Consequent upon recommendations of the 6th CPC, his reservist pension was revised by Corrigendum PPO dated 13

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January, 2016 (since he had less than 15 years of service as colour and reserve).

3. The applicant filed a rejoinder re-stating that this Tribunal has jurisdiction since he is not a member of the Armed Forces and was in fact a civilian employee with the supply core working as Driver. He has also stated that he has in fact completed 21 years of service.

4. Since the issue of jurisdiction of this Tribunal is raised, the matter was heard, on this issue, on 17.08.2021. Both the learned counsels stated the positions taken in their respective pleadings.

5. After going through the pleadings and hearing the learned counsels of the parties we have no hesitation by coming to the conclusion that this Tribunal has no jurisdiction in this matter. The Administrative Tribunals Act specifically excludes members of the Armed forces from the purview of the Act. There is a different Tribunal, Armed Forces Tribunal, to take care of the grievances of the Armed forces. The respondents have very categorically stated that he was engaged and retired under the terms of the Army Act and Rules. The use of terms e.g. services in colour (which means in uniform) and reservist also show the nature of his employment was not as a civilian employee. In the

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document filed by the respondents (at Annexure MA/1, it is informed that the matter relates to reservist pensioner for whom the "OROP" (One Rank One Pension) is not applicable. OROP, as is well known, is a matter connected with Armed forces only. The mentioning of Ex sep. for K.T. George and stating the relevance (or irrelevance) of OROP in this matter, also indicated that the applicant was a member of the Armed forces. The applicant, too, in his own representation before Sena Seva Corps Abhilekh [DSC Records (South)] (Annexure A/7) called himself *Sipahi* K.T.George. This shows that he is well aware of his being a Sepoy, which cannot be termed as a civilian assignment. Thus, we find sufficient evidence to show that the applicant was not a civilian employee though he might have been working as a Driver. The applicant has not produced any evidence of his being a civilian employee except for stating this in so many words.

6. Since we have concluded this matter to be beyond our jurisdiction, we cannot continue further with the examination of the merits of the applicant's case, and have no option but to dismiss it for want of jurisdiction. Though it is partly a fault of the applicant (a number of adjournments on the request of his counsel) and partly due to unforeseen circumstances (Covid-19), the applicant shall have the liberty to pursue the matter before an appropriate forum where we expect him to be shown

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due consideration for the delay that happened while the matter was pending here. We appreciate the respondents' self-restraint in obeying this Tribunal's interim orders, (though without jurisdiction, as we have found *now*). We would further appreciate if they continue to do so for one more month, from the date of receipt of this order, or until any orders are issued by a competent forum that the applicant approaches within this period, whichever happens earlier. No costs.

7. MA No.268/2017 filed by the respondents for vacation of interim order is disposed of accordingly.

(Hina P. Shah)
Member (J)

(Dinesh Sharma)
Member (A)

/kdr/