

(8)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH : JODHPUR

Date of order : 4.3.1998

O.A. No. 264/1996

Shri P.K. Bodha son of Shri Shanker lalji Bodha aged about 49 years, resident of 2-B-14 Pratap Nagar, Jodhpur, at present employed on the post of Telecom Office Assistant (TOA) in the office of the D.E. Telecom Project, Jodhpur (Raj.).

... Applicant.

v e r s u s

1. Union of India through Secretary to Government of India, Ministry of Communication (Department of Telecom), Sanchar Bhawan, New Delhi.
2. The Director General, Ministry of Communication (Deptt. of Telecom), Sanchar Bhawan, New Delhi.
3. The Chief General Manager, Raj. Circle, Jaipur.

... Respondents.

Mr. J.K. Kaushik, Counsel for the applicant.

Mr. Vinit Mathur, Counsel for the respondents.

CORAM:

Hon'ble Mr. A.K. Misra, Judicial Member.

Hon'ble Mr. Gopal Singh, Administrative Member.

O R D E R

(Per Hon'ble Shri Gopal Singh)

Applicant, P.K. Bodha, has filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for setting aside the order dated 17.2.1995 (Annexure A/1) and directing the respondents to make the payment of DA, HRA, CCA, etc. on the amount of pension taken into account for fixation of pay of the applicant on the re-employed post with all consequential benefits. The case of the applicant is that after serving in the Army from 23.11.1965 to 25.5.1981, the applicant was re-employed in the Telecom department on the post of Clerk (known as Telegraph Office Assistant) in the office of the D.E. (Telegraph), Jodhpur. At the very outset, the learned counsel for the applicant submitted that the pay of the applicant has now been correctly fixed by the respondents. We, therefore, do not consider it necessary to discuss this subject at all. As regards the entitlement of DA, HRA, CCA, etc. on the pay on re-employed post, the respondents in their reply have stated that allowing DA, HRA, CCA, TA and LTC on the gross pay of Rs. 384/- is not permissible under the rules. The learned counsel for the respondents has, however, not been able to support his arguments by any rules / orders.

C. P. Singh

2. We have heard the learned counsel for the parties and perused the records of the case.

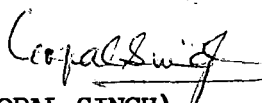
3. The contention of the applicant is that his pay on the re-employed post was required to be fixed according to the order 16 of CCS (Fixation of pay of Re-employed Pensioners) Orders, 1986. Note 2 below Rule 16 of the CCS (Fixation of Pay of Re-employed Pensioners) Orders, 1986, which is relevant to the point at issue is reproduced below :-


"No dearness relief on pension is admissible during the period of re-employment. The pension is to be taken into account for fixation of pay in the re-employed post and will be taken into account for determining DA/HRA/CCA, TA/LTC entitlements. This will also count as emoluments for pension."

It is clear from the above note that the pension is to be taken into account for fixation of pay on the re-employed post and will be taken into account for determining the DA/HRA/CCA, TA/LTC entitlements etc. As such, we are of the firm view that all the allowances and entitlements are admissible to the applicant on his gross pay subject to the condition that the pensioner will not be entitled to these allowances on the pension paid separately by the Pension Paying Authority. This would mean that the applicant would draw only the basic pension from the Pension Paying Authority and no other allowances. Thus, we find that the application has merit and deserves to be allowed.

4. The O.A. is accordingly allowed and disposed of with the direction that the applicant would be paid all the allowances and the entitlements on his gross pay as mentioned above from the date of his re-employment provided that he does not draw these allowances on his pension from the Pension Paying Authority.

5. Parties are left to bear their own costs.


(GOPAL SINGH)
Adm. Member

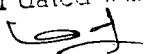

(A.K. MISRA)
Judl. Member

CVR.

Reems
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Part II and III destroyed
in my presence on 6-4-2004
under the supervision of
section officer as per
order dated 22/12/2002


Section officer (Record)