

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.549/2002.

Thursday this the 12th day of August 2004.

CORAM:

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR.H.P.DAS, ADMINISTRATIVE MEMBER

K.R.Radhakrishnan,
Sorting Assistant,
Railway Mail Service, Kottayam. Applicant

(By Advocate Shri Siby J.Monippally)

Vs.

1. Union of India represented by
Chief Postmaster General,
Kerala, Trivandrum.
2. Director of Postal Services,
Trivandrum.
3. Senior Superintendent,
Railway Mail Service,
Trivandrum. Respondents

(By Advocate Mr.N.Mahesh)

The application having been heard on 12.8.2004, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN


The applicantt after Military service from 10.7.1963 to 2.11.1979 got discharged from service before attaining the age of 55 years and was re-employed in the Railway Mail Service as Sorting Assistant on 23.4.1980. He was drawing a pay of Rs.380.50/- in the Military service at the time of his retirement. On re-employment, the applicant's pay was fixed at Rs.306/- deducting the pensionary benefits. The Government of India O.M.No.2(1)/83/D(Civ-I) dated 8.2.1983(Annexure A-1) clearly states that in the case of re-employed Ex-servicemen who are the non-Commissioned officers and below, the entire pension were ignored for the purpose of fixation of pay. The applicant

made several representations seeking proper fixation of pay but finding that he was not given the benefit, submitted a belated option on 26.7.2000 to have his pay re-fixed with effect from 25.1.1983. Since that option was not accepted and he was not given the refixation of pay, the applicant submitted another option on 21.4.2001. Still not getting a favourable order of fixation of pay, the applicant has filed this application for a direction to the respondents to fix the pay of the applicant with effect from 8.2.1983 at Rs.380/- in accordance with A-1.

2. The respondents in their reply statement contend that, since the applicant did not exercise option on time, he is not entitled to fixation of pay.

3. When the matter came up before the Bench, Shri Siby J.Monippally, learned counsel appeared for the applicant and Shri N.Mahesh, ACGSC appeared for the respondents.

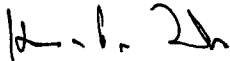
4. We have heard the learned counsel on either side and gone through the pleadings and material placed on record. A careful scrutiny of the application and the entire pleadings on record reveals that, by not exercising an option on time, the applicant did not derive any advantage. On the contrary, he had to suffer a loss. Non-submission of option on time in this case can only be due to an inadvertent mistake or ignorance. Accepting a belated option and refixing the pay of the applicant would not cause any loss to the administration or any unintended benefit to the applicant. Under these circumstances, we direct the respondents to accept the belated option and refix the pay of the



applicant in accordance with law, ignoring the entire pension with effect from 8.2.83 notionally and make available to him the monetary benefits flowing therefrom with effect from 21.4.01. The above exercise shall be completed and payment of arrears made within a period of two months from the date of receipt of a copy of this order.

5. The. O.A. is disposed of as above. No costs.

Dated the 12th August, 2004.



H.P.DAS
ADMINISTRATIVE MEMBER



A.V.HARIDASAN
VICE CHAIRMAN

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