

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH
O.A. NO.607/2012

Dated this the 23rd day of November, 2012

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HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

C.Ramachandran, S/o late K.Kunhappa Nambiar
R/o Sreeragam, Near Kalarikkavu, Ambilad P.O
Nirmalagiri, Kannur, Kerala (Retired as Superintendent
of Central Excise & Customs, Calicut Commissionerate,
Mananchira, Calicut, Kerala.

...Applicant.

Vs.

1 The Pay & Accounts Officer, Central Excise & Customs
Calicut - 673001.

2 The Pay & Accounts Officer, Central Pension
Accounting Office, Ministry of Finance, Govt of India,
Trikoot II Complex, Bhikaji Cama Place, New Delhi-66.

...Respondents

(By Advocates Mr George Joseph, ACGSC)

The application having been heard on 23.11.2012 and the Tribunal
held as under:

ORDER

HON'BLE Mrs.K.NOORJEHAN, ADMINISTRATIVE MEMBER

Brief facts as stated by the applicant are that he is a military pensioner re-employed with the respondent's department from 20.02.1989. He retired on 31.12.2011. He averred that Rule 13-A(ii)(b) of the CCS (Pension) Rules, 1972 provides that if a military pensioner retires from civil re-employment after becoming eligible for pension thereof, he shall exercise an option at the time of applying for civil service pension either to be governed by family pension under the civil service rules or to avail of family pension benefits as authorised at the time of his retirement/discharge

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from military service and the said option once exercised shall be final. According to the applicant he exercised option for civil service family pension under Rule 54(13A)(ii)(b) of CCS Pension Rules, 1972 at the time of applying for civil service pension. The applicant produced Annexure A-5 which is the information, he obtained through RTI Act to show that DDO has forwarded his option to CDA for cancellation of military family pension. Therefore, he contends that the denial of civil service family pension on the part of the respondents is illegal.

2 The respondents contested the OA. They submitted that the applicant has not submitted the option for civil family pension as envisaged under Rule 54(13A)(ii)(b) of CCS (Pension) Rules, 1972 alongwith pension papers It is also stated that the Form 5 submitted by the applicant was incomplete. The Deputy Commissioner, Central Excise Division, Kannur, who was the Head of office at that time forwarded the pension papers to the PAO, Central Excise, Calicut, i.e R1. It is further stated that the Head of office in Form 7 against column 14 mentioned 'not applicable' regarding particulars of military service. This fact was brought to the notice of the Head of Office by R1. Thereafter the Head of Office resubmitted Form 7 filling the particulars against column 14. Accordingly R1 finalised and recommended civil family pension to the applicant and forwarded the pension payment authority along with PPOs to the 2nd respondent. The 2nd respondent returned the documents stating that applicant being a military pensioner, a certificate stating that family pension from the military is withdrawn to be obtained from the military pension authority. Meanwhile the applicant requested the 2nd respondent endorsing copy to R1 to authorise the pension deferring the civil family pension. Accordingly fresh PPO was issued making a remark that "family pension deferred for want of certificate of withdrawal of military family pension" by Anxx.A2.

3 Rejoinder to the reply was filed by the applicant reiterating the facts as stated in the O.A

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4 Heard the learned counsel for the parties and scrutinised the records.

5 There is no dispute that the applicant is entitled for civil service family pension benefit once he foregoes the family pension, sanctioned on account of his military service. It is evident that Rule 13-A(ii)(b) of the CCS (Pension) Rules, 1972 provides that if a military pensioner retires from civil re-employment after becoming eligible for pension thereof, he shall exercise an option at the time of applying for civil service pension either to be governed by family pension under the civil service rules or to avail of family pension benefits as authorised at the time of his retirement/discharge from military service and the said option once exercised shall be final. Admittedly the applicant had exercised his option for civil service family pension under Rule 54(13A)(ii)(b) of CCS Pension Rules, 1972 at the time of applying for civil service pension. On going though the pleadings, it is seen that R1 has finalised the pension papers and recommended civil family pension and forwarded the same to the pension payment authority i.e; R-2. The 2nd respondent returned the documents stating that applicant being a military pensioner, a certificate stating that the family pension is withdrawn is to be obtained from military pension authority i.e; CDA(PEN). It is the duty of the Head of office to get all the papers ready well in advance for timely payment of pension and other pensionary benefits. The respondents have submitted that the applicant had submitted the required application form and documents for pension processing only 5 months in advance as against the prescribed 8 months. This option for civil family pension was received by the respondents only on 16.12.2011.

6 Annexure R-9 produced by the respondents shows that the option exercised by the applicant was forwarded to CDA Allahabad once again for necessary action .R-2 can very well address CDA (PEN)(AF) to make an endorsement in the PPO issued to the applicant, at the time of his discharge, to show that family pension sanctioned is withdrawn, in view of option for

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civil family pension. On receipt of a copy of the PPO from CDA(PEN)(AF), withdrawing family pension, necessary remark can be made and revised PPO showing family pension to the wife of applicant, issued by R-2. It will be incumbent, upon R-1, to ensure that revised PPO in incorporating family pension is issued by addressing CDA (PEN)(AF) and R-2 periodically.

6. I therefore, allow the O.A and declare that the applicant is eligible for civil service family pension as per his option exercised under the relevant rule. The 2nd respondent is directed to issue revised PPO granting family pension under the CCS Pension Rules, 1972 within a time line of four months. No costs.

Dated 23rd day of November 2012


(K Noorjehan)
Administrative Member

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