

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O. A. No. 110 1992.

DATE OF DECISION 30-11-92

P. Chacko Abraham Applicant(s)

Mr. M. Rajagopalan Advocate for the Applicant(s)

Versus

Divisional Personnel Officer, Respondent (s)  
Southern Railway, Trivandrum and two others.

Smt. Sumati Dandapani Advocate for the Respondent(s)

CORAM :

(R.1&2).

The Hon'ble Mr. S.P.Mukerji, Vice Chairman  
and

The Hon'ble Mr. A.V.Haridasan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? Y
2. To be referred to the Reporter or not? N
3. Whether their Lordships wish to see the fair copy of the Judgement? N
4. To be circulated to all Benches of the Tribunal? N

## JUDGEMENT

(Hon'ble Shri S.P.Mukerji, Vice Chairman)

In this application dated 20.1.92 filed under Section 19 of the Administrative Tribunals Act the applicant who is an ex-serviceman re-employed Commercial Clerk in the Southern Railway has prayed that his re-employment pay should be refixed protecting his last military pay and ignoring his entire pension with all consequential benefits. He has also prayed that the third respondent ie., Officer-in-Charge, Air Force Records be directed to send the pay particulars to the first respondent ie., Divisional Personnel Officer, Southern Railway for the purpose of pay fixation.

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2. The brief facts of the case are as follows. According to the applicant when he was discharged from the Indian Air Force after 21 years of service on 31.3.79 the last pay drawn by him was Rs.450 per month. He was granted military pension of Rs. 192/- per month. On 17.11.81 he was re-employed as Commercial Clerk in the Railways in the scale of Rs.260-430. On his representation for pay fixation at a higher stage, particulars about his pay were called for from the third respondent and according to his understanding the latter had forwarded the particulars to the first respondent. He has been given to understand that since no undue hardship has been caused to him because his pension plus present pay is not less than the last pay drawn in the Air Force, his pay cannot be refixed at a higher stage.

3. In the reply statement filed by Respondents 1&2 it is stated that the applicant was re-employed on 17.11.81 and he did not make any representation <sup>his</sup> and thus/<sub>his</sub>claim is time barred. They have accepted that the applicant was re-employed as a Commercial Clerk in the scale of Rs.260-430 on a pay of Rs.260/- per month. They have indicated that the applicant was drawing a pay of Rs.440/- with Good Conduct pay of Rs.15/- giving a total of Rs.455/- in the Air Force. His military pension was Rs.290/- and pension equivalent of gratuity was Rs.36.95/- which together with the re-employment pay of Rs.260/- would be more than the last pay drawn by him in the Air Force. They have also conceded that when the applicant was

re-employed in 1981 Rs.125/- of the military pension was to be ignored. From 1983 <sup>for military</sup> personnel below Commissioned Rank the entire military pension was to be ignored. They have also stated that since after ignoring Rs.125/- of the military pension the minimum of the pay scale of the re-employed pay of Rs.260/- plus the non-ignorable part of the military pension of Rs.201.95 giving a total of Rs.461.95 is more than the last military pay of Rs.455/- drawn by him, he is not entitled to any advance increments for the fixation of his initial pay.

4. We have heard the arguments of the learned counsel for both the parties and gone through the documents carefully. In accordance with the Full Bench decision of this Tribunal the ignorable part of the military pension cannot be added to the re-employment pay to compare the total with the last pay drawn in the military to determine whether there is any hardship or not. When the applicant was re-employed in 1981 Rs.125/- of the military pension had to be ignored. Thus the unignorable part of the military pension was Rs.201.95. This together with the minimum of Rs.260/- of the pay scale of Rs.260-430 would give a total basic emoluments of Rs.461.95. This is more than the last Air Force pay of Rs.455/- drawn by the applicant. There being no hardship, the applicant is not entitled to any further increments in the re-employment pay.

5. The application has no force and we dismiss the same without any order as to costs.

(A.V. HARIDASAN)  
JUDICIAL MEMBER

30.11.92

(S.P. MUKERJI)  
VICE CHAIRMAN

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

R.A.8/93 in O.A.110/92 A. No. \_\_\_\_\_ 189

DATE OF DECISION 29.1.93.

Parackal Chacko Abraham Applicant (s)

Mr.M.Rajagopalan Advocate for the Applicant (s)

Versus

Divisional Personnel Officer, Respondent (s)  
Southern Railway, Trivandrum & 2 others.

Smt.Sumathi Dandapani Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. S.P.MUKERJI, VICE CHAIRMAN

The Hon'ble Mr. A.V.HARIDASAN, JUDICIAL MEMBER


1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement? Yes
4. To be circulated to all Benches of the Tribunal? Yes

## JUDGEMENT

(Hon'ble Shri S.P.Mukerji, Vice Chairman)

The review applicant has questioned the judgment on merits which cannot be urged in a review application. Even going by merits, he has admitted that at the time of re-employment, the re-employment pay at the minimum of pay scale at Rs.260/- plus the unignorable part of his military pension, i.e, Rs.201.95 giving a total of Rs.461.95 is more than the last military pay of Rs.455/-. Thus, there is no undue hardship in his case and he is not entitled to get increments over the minimum of the pay scale in which he had been re-employed. Accordingly we see no merit in the R.A. and dismiss the same by circulation.

  
29/1/93  
(A.V.HARIDASAN)  
JUDICIAL MEMBER

  
29.1.93.  
(S.P.MUKERJI)  
VICE CHAIRMAN