

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.153/98

Friday, this the 5th day of January, 2001.

CORAM:

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

HON'BLE MR T.N.T.NAYAR, ADMINISTRATIVE MEMBER

P.N.Ravindran Pillai,
Postal Assistant,
Head Post Office,
Chengannur. - Applicant

By Advocate Mr TC Govindaswamy

Vs

1. Union of India through
the Secretary to Government of India,
Ministry of Communications,
Department of Posts,
New Delhi.
2. The Chief Postmaster General,
Kerala Circle,
Trivandrum.
3. The Post Master General,
Trivandrum.
4. The Superintendent of Post Offices,
Thiruvalla Division,
Thiruvalla. - Respondents

By Advocate Mr K Kesavankutty, ACGSC

The application having been heard on 5.1.2001, the Tribunal on the same day delivered the following:

O R D E R

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

The applicant who had rendered service in the Armed Force from 13.1.67, was re-employed as Postal Assistant in the scale of pay of Rs.260-480. As he was not given fixation of pay taking into account his service rendered as Ex-Combatant

Clerk, the applicant filed O.A.661/93 which was disposed of by an order dated 13.10.93(A-1) directing the respondents to refix the pay of the applicant in the re-employed post in the scale of Rs.260-400 by allowing one increment for each completed year of service in the Armed Forces, ignoring the pension drawn by him with all attendant benefits from the date of his re-employment. The respondents filed an SLP, but they implemented the directions contained in the order of the Tribunal in O.A.661/93, by order dated 13.7.94(A-2) fixing applicant's initial pay at Rs.396/- with effect from 6.8.84. He was also granted the arrears. However, the SLP was disposed of in terms of the earlier ruling of the Apex Court in Director General of Posts and others Vs B.Ravindran and another, 1997 SCC(L&S) 455. In purported implementation of the Full Bench judgement of the Tribunal in O.A.3/89 and of the Supreme Court judgement, the pay of the applicant was refixed at Rs.324/- with effect from 6.8.84 by the impugned order A-5 order dated 12.11.97, without any notice to the applicant. The applicant's representation against the refixation of pay was disposed of rejecting his claim by the impugned order A-7 dated 4.12.97. It is aggrieved by that the applicant has filed this application seeking to have the impugned orders A-5 and A-7 set aside and to direct the respondents to fix the initial pay of the applicant in the post of Postal Assistant at the stage of Rs.396/- with effect from 6.8.84 in the scale of Rs.260-480 and to grant consequential benefits.

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2. Respondents in their reply statement contend that the claim of the applicant for fixation of pay at Rs.396/- with effect from 6.8.84 is not sustainable for two reasons; i) that during the period from 13.1.67 to 3.1.73, as the applicant was drawing less pay than the minimum of the scale of pay of the post of Postal Assistant and as Combatant Clerk, the service rendered during this period cannot be reckoned for the purpose of grant of increment and ii) that if one increment for each completed year is given to the applicant, his pay would be more than the last pay drawn by him as a Combatant Clerk. The respondents therefore contend that the refixation done is perfectly in order.

3. The applicant has filed a rejoinder in which he has referred to Rule 16(2) of CCS(Fixation of Pay of Re-employed Pensioners) Orders, 1986 which reads as follows:

"Service rendered as Combatant Clerks and Storemen in Armed Forces shall be treated as equivalent to service as Lower Division Clerks/Junior Clerks and Storemen respectively in civil posts, irrespective of the pay drawn in those posts in the Armed Forces. The initial pay in such cases shall be fixed in the time scale of the re-employed posts at a stage equivalent to the stage that would have been reached by putting in the civil posts, the number of completed years of service rendered in the posts in the Armed Forces. The pay so fixed will not be restricted to the 'pre-retirement pay'. The fixation of pay in these cases shall be

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done by invoking the provisions of Fundamental Rule 27. .

Explanation 1 - For the purpose of calculation of completed years of service rendered in the Armed Forces the non-qualifying service in the Armed Forces will not be taken into account.

Explanation 2 - Pension as defined in Order 3(1) above shall be deducted from the pay fixed under this rule after ignoring Rs.15 thereof and only the net pay is payable.

Explanation 3 - If the resultant amount does not correspond to a stage in the scale applicable to the re-employed post, pay may be fixed at the next lower stage and the difference allowed as personal pay to be absorbed in future increases of pay.

Explanation 4 - Where the pay in such cases is fixed below the minimum of the pay scale of the re-employed post, as a result of adjustment of amount of pension drawn by him from the Army in excess of Rs.15 per month, increases in pay may be allowed after each year of service at the rate of increment admissible as if the pay has been fixed at the minimum till the minimum of the scale is reached. Thereafter, subsequent

increments may be granted in the scale of the re-employed post in the usual manner."

(Emphasis ours)

and contended that as the applicant was a Combatant Clerk irrespective of the pay he had drawn, the entire service rendered by him as Combatant Clerk has to be reckoned for the purpose of grant of increment in fixing his pay on re-employment as Postal Assistant. The argument of the learned counsel for the respondents that granting of increment for each completed years of service as Combatant Clerk would result in the applicant getting more pay than what he was getting at the time of his discharge from Army is also found to be meritless, in view of the provision in the Rule which states that the pay "so fixed will not be restricted to pre-retirement pay". In the additional reply statement filed, the respondents have not met this contention of the applicant.

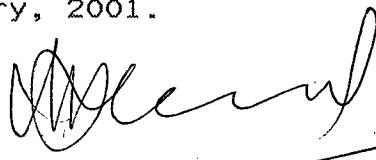
4. In the result, we find that the applicant is entitled to have his pay fixed in accordance with the provisions contained in Rule 16(2) of the CCS(Fixation of Pay of Re-employed Pensioners) Orders, 1986. Accordingly the impugned orders are set aside and the respondents are directed to refix the pay of the applicant in terms of the provisions of Rule 16(2) of the CCS(Fixation of Pay of Re-employed Pensioners) Orders, 1986 giving/benefit of increment for the

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entire service as Combatant Clerk in 15 years. The order fixing the pay of the applicant accordingly shall be issued and the monetary benefit flowing therefrom made available to the applicant within two months from the date of receipt of a copy of this order.

Dated, the 5th of January, 2001.


T.N.T. NAYAR
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

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List of Annexures referred to in the order:

- A-1: A True copy of the judgement in O.A. No. 661/93 delivered by this Hon'ble Tribunal dated 13.10.93.
- A-2: A True copy of the order No. B/R 63 dated 13.-7-94 issued by the 4th respondent.
- A-5: A true copy of the Memo No. B/R-63 dated 12.11.1997 issued by the 4th respondent.
- A-7: A true copy of the letter No. B/R-63 dated 4.12.97 issued by the 4th respondent.