

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Date of decision: 14-9-1993

Original Application No.17 of 1993

TR Sreedharan Pillai

- Applicant

Mr P Sivan Pillai

- Counsel for the applicant

v.

1. Union of India through
General Manager,
Southern Railway, Madras-3.

2. The Divisional Personnel Officer,
Southern Railway,
Trivandrum-14.

- Respondents

Mrs Sumathi Dandapani

- Counsel for the respondents

CORAM

HON'BLE MR N DHARMADAN, JUDICIAL MEMBER

JUDGEMENT

N DHARMADAN, JUDICIAL MEMBER

Applicant, a re-employed Ex-Serviceman under the Railway, is coming for the second time for proper fixation of his pay, in accordance with the principles laid down by this Tribunal in OA-3/89 taking into consideration his option indicated in Annexure-A3 letter dated 24.11.1983. According to the applicant, if his option for getting proper fixation taking into consideration with effect from 1983, his basic pay would have been fixed at Rs.460/-, instead of Rs.350/- as has been shown in the impugned order.

2. The learned counsel for respondents submitted that the impugned order was passed during the pendency of CCP-57/92 in OA-378/91 and the applicant has accepted the same without any objection. Hence the CCP was closed as per order of this Tribunal dated 1.9.1992.

3. It is averred by the applicant that he has exercised option for fixation of his pay in terms of Annexure-A2 order dated 16.6.1983 and it is also evident from Annexure-A3 reply. In the light of the reply, the pay of the applicant has to be fixed fully ignoring the pension and taking into consideration the hardships in accordance with the Annexure-A4 judgement. The applicant further submitted that the directions in Annexure-A4 judgement have not been fully complied with while passing the impugned order dated 14.7.1992.

4. Though the respondents have denied in the reply the averments in the OA, it is not made clear whether the option as referred to in Annexure-A2 and A3 was taken into consideration for fixing the pay of the applicant. It is a fact that the entire pension of the applicant has not been considering the option w.e.f. 1983. The law applicable to the fixation of pay of the re-employed employees as held by the Full Bench of this Tribunal in OA-3/89, states that the full pension is to be ignored in appropriate cases where there is exercise of proper option by the employees. Since the applicant has complied with his part of the obligation by exercising

the option, the respondents are bound to consider/claim of the applicant, ignoring the entire pension and according to him the salary which he was drawing with effect 1983 is to be taken into consideration for proper fixation. However, I am not going into the further details. It is for the second respondent to consider the request of the applicant in the light of Annexure-A2 and A3 afresh notwithstanding the Annexure-A5. Accordingly, I am satisfied that the interest of justice would be met in this case, if I dispose of this application directing the applicant to file a detailed representation before the second respondent within two weeks from today so as to enable second respondent to consider the claim of the applicant for proper fixation of his pay. If the second respondent receives such a representation as directed above, he shall consider the claim of the applicant in the light of the above observations and also bearing in mind the principles of the Full Bench in OA-3/89 and dispose of the same in accordance with law, within a period of three months from the date of receipt of representation.

5. The application is disposed of as above. No costs.


14.9.93
(N DHARMADAN)
JUDICIAL MEMBER
14-9-1993

trs

List of Annexures

1. Annexure-A2 : True copy of letter dated 16.6.1983 regarding fixation of pay of Ex-servicemen.
2. Annexure-A3 : True copy of letter dated 24.11.1983 showing representation fixation of pay.
3. Annexure-A4 : True copy of judgement of this Tribunal in OA-378/91 dated 31.10.1991
4. Annexure-A5 : True copy of letter No.V/P-535/IV/Misc./ Vol.dt.14.7.1992