

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

DATE: 4.10.93

O.A. 200/93

O.T. Kurien
Telephone Supervisor(Operative)
Telephone Exchange, Kottayam

Applicant

vs.

1. Union of India represented by
Secretary to Government, Ministry
of Personnel, P.G. and Pensions
Department of Personnel & Training
New Delhi

2. Chief General Manager, Telecom.
Trivandrum

3. Telecom District Manager, Kottayam

Respondents

Mr. K.R.B. Kaimal

Counsel for the
applicant

Mr. K.V. Raju, ACGSC

Counsel for the
respondents

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THE HON'BLE MR. N. DHARMADAN JUDICIAL MEMBER

JUDGMENT

MR. N. DHARMADAN JUDICIAL MEMBER

A retired employee filed this application under section 19 of the Administrative Tribunals' Act challenging Annexure A-1 order by which a sum of Rs. 25,032/- being DCRG has been withheld for being adjusted against the amount overdue from 1.1.86 to 31.12.92.

2. According to applicant, he was granted a pension of Rs. 277/- per month before 1.1.86. The scale of pay of Telephone Operator was revised w.e.f. 1.1.86. On the basis of the recommendation of the IV Pay Commission, the minimum pension payable to the Central Govt. pensioner including Army Pension was revised to Rs. 375/- per month w.e.f. 1.1.86. The applicant was given the benefit of revision of pension. Thus the applicant was drawing the revised military pension of Rs. 375/- The applicant retired from service on 31.1.93. Even before his retirement Annexure-I was issued withholding Rs. 25,032/- from the DCRG. According to applicant, the action of the respondents

is illegal. Annexure-II is the order extending the benefit of revision of pay/pension to ex-servicemen on re-employment. The applicant further submitted that the pension already fixed at the time of retirement from Army was revised w.e.f. 1.1.86 and the benefit of fixation on the basis of revision is nothing but equivalent to original pension. Hence, there is no overpayment or mistake as stated in Annexure-I. He further submitted that this issue came up for consideration in O.A. 1023/91.

3. Respondents in the reply submitted that Annexure-III order was passed for revising the pension payable to re-employed pensioners w.e.f. 1.1.86. They further submitted that the O.M. dated 11.9.87 will not apply to the applicant.


4. I have gone through the judgment Annexure A-IV. This Tribunal following the judgment in O.A. 260/90 considered similar question after adverting to Ext. R-1. The operative portion of the judgment is extracted:

"The above will show that the Govt. of India have already accepted the finding of the Tribunal at least where the entire amount of pension was being fully ignored before 1.1.86 and have decided that the circular of the Department of Personnel and Training dated 11.9.87 will not apply. Since in the case before us the full military pension of the applicant was being ignored, the circular of 11.9.87 cannot be applied to his case by the Govt. of India's own subsequent decision dated 3.5.90. It appears that the impugned order was passed in ignorance of the Department of Personnel & Training's clarification in their aforesaid U.O. dated 3.5.90. In any case since the applicant's entire military pension was being ignored before 1.1.86, his revised military pension w.e.f. 1.1.86 cannot be reckoned for the purpose of fixation of his pay in the revised pay scale of the re-employment post w.e.f. 1.1.86."

5. Since Annexure A-IV judgment applies to the facts of this case, I am of the view that the Original Application is to be allowed. Accordingly, I set aside the impugned order and direct the respondents to disburse the amount of Rs. 25032/- withheld as per Annexure-I order. This shall

be done within a period of three months from the date of receipt of the copy of this judgment.

6. The application is allowed.
7. There shall be no order as to costs.


(N. DHARMADAN)
JUDICIAL MEMBER
4.10.93

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List of Annexures

1. Annexure-A-1 : : Order No. Q 268/29 dated 22.12.92
2. Annexure A-IV : Judgment of this Tribunal in O.A. 1023/91