

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

DATE: 15.10.93

O.A. 23/93

K.N. Rajagopalan
S/o M.K. Narayanan
Refrigeration Mechanic (T-II)
C.I.F.T., Cochin-29

Applicant

vs.

1. The Director,
C.I.F.T., Cochin-29

2. The Director General,
Indian Council of Agricultural Research
Krishi Bhawan, New Delhi

Respondents

Mr. P.V. Mohanan

Counsel for the
applicant

Mr. P. Jacob Varghese

Counsel for the
respondents

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THE HON'BLE MR. N. DHARMADAN JUDICIAL MEMBER

JUDGMENT

MR. N. DHARMADAN JUDICIAL MEMBER

A re-employed ex-serviceman has filed this application under section 19 of the Administrative Tribunals' Act challenging Annexure-I order passed by the Sr. Administrative Officer fixing his pay in the re-employed post at Rs. 330/- He also prays for issuing a direction to the respondents to fix his minimum pay in the scale of Rs. 330-560 (pre-revised) in the re-employed post at a higher stage taking into account the benefits of 16 increments for the service the applicant has already rendered in the Army prior to his re-employment.

2. Having completed 16 years of service in the Army and retired at the age of 38 while working as Havildar, he was drawing a ~~xxxxx~~ pay of Rs. 736/- at the time of retirement. He was re-employed as Refrigeration Mechanic (T-II) in the pay scale of Rs. 330-560 in the CIFT ~~as per~~ offer of appointment dated 30.7.86. He was actually appointed on 7.8.86. Thereafter, Annexure-I order was

passed fixing his pay in the re-employed post.

3. The respondents in the reply admitted that the impugned order has been passed on a mistaken basis without considering the relevant orders on the subject. The order has been cancelled. But they contended that the applicant's case can be considered under the provision of CCS Rules for fixation of pay of Re-employed Pensioners 1986 which are applicable to him.

4. Since the impugned order has been cancelled, it is not necessary to consider the validity of the same on the basis of the second prayer. The only prayer that survives is the first prayer which is covered by the judgment of this Tribunal in O.A.K. 507/88, O.A. 144/90 and O.A. 407/90. In all these cases, this Tribunal followed the earlier Full Bench judgment in which the scope of the application of pay of re-employed ex-servicemen were considered and held as follows:

"When the total military pension was increased to Rs. 375/- from 1.1.86 the difference between Rs. 50/- and the total pension which was to be deducted from his re-employment salary became so pronounced that he invoked the O.M. of 1983 for ignoring the total pension. Since the option itself was not found by the Tribunal to be equitable as it was conditional upon the applicant losing the benefits of his entire previous service, we do not see much justification in the respondents' taking the technical plea of the applicant not exercising the option in 1983 for denying him the benefit of total exemption of enhanced pension for purposes of pay fixation. In any case at least from 1.1.86, if not earlier, the applicant should be given exemption of the total pension of Rs. 375/- of military pension for pay fixation. In the facts and circumstances we allow the application with the following directions:-

X X X

ii) The entire amount of military pension of Rs. 375/- should be ignored for the purposes of pay fixation of the applicant w.e.f. 1.1.86 as if the applicant had opted for the O.M. of 8.2.83. The over deductions made from the DCRG by deducting Rs. 325/- from his salary should be refunded to the applicant within the same period as laid down in (i) above."

5. The contention now raised by the respondents in the reply that applicant's case will come within the provisions of CCS (Fixation of Pay of Re-employed Pensioners) Orders, 1986 was also considered by this Tribunal in O.A.R. 407/90. That case was allowed with the direction to fix the pay of the applicant therein w.e.f. 1.1.86 by ignoring military pension.

6. Following the judgment in the earlier cases, I am satisfied that this O.A. can be disposed of with appropriate direction. Accordingly, I allow the application and direct the respondents to fix the pay of the applicant in the re-employed post/taking into account the increments which he has earned while he was serving the Indian Army before his retirement. The applicant is also entitled to all consequential benefits and disbursement of arrears of pay. This shall be done within a period of four months from the date of receipt of the copy of this judgment.

7. The application is allowed as indicated above.

8. There shall be no order as to costs.


15.10.93

(N. DHARMADAN)
JUDICIAL MEMBER
15.10.93

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