

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

O.A No.240/87

TP Raghavan Pillai : Applicant

-Vs-

- 1 Union of India rep. by
Secretary to Govt. of India
Ministry of Finance
New Delhi
- 2 The Secretary
Central Board of Direct Taxes
New Delhi
- 3 The Commissioner of Income-tax
Cochin-16, Kerala : Respondents

M/s MR Rajendran Nair
Mary Isabella S.D *
PV Asha and
KS Ajayagosh : Counsel of Applicant

Mr PV Madhavan Nambiar, SCGSC : Counsel of Respondents

CORAM

Hon'ble Shri Justice G Ramanujam, Vice Chairman

(Order pronounced by Hon'ble Shri Justice G Ramanujam,
Vice Chairman)

O R D E R

The applicant herein was a Combatant Clerk
in the Army prior to his ~~initial~~ appointment in
the Income-tax Department. ^{After} ~~Consequent on~~ his
retirement from the Army after serving 15½ years,
he was entertained as an Upper Division Clerk in
the Income-tax Department having regard to the
fact that he is a post graduate, whereas normally
similar persons who retired as Combatant Clerks

from the Army were entertained as Lower Division Clerks/Junior Clerks in the Income-tax Department.

The scale of pay for the UD Clerk is Rs 130 -300 and for the LD Clerk Rs 110 - 180, ~~respectively~~.

The applicant was recruited as UD Clerk on 10.12.84.

Thereafter, in course of time he was promoted as Head Clerk and subsequently after passing the requisite competitive examination promoted as Income-tax Inspector. Even before the applicant was recruited as UD Clerk in the Income-tax Department on 10.12.84, the Ministry of Finance, Government of India, Deptt. of Expenditure had issued the OM No 6(8)-E.III/63 dated 11.4.1963 by which certain benefits have been conferred in the matter of fixation of pay of Ex-Combatant Clerk who had been re-employed as LD Clerks/Junior Clerks in civil posts. As per the said memorandum, if the Combatant Clerks are re-employed as LD Clerks/Junior Clerks, then their initial pay has to be fixed in the minimum of the time scale of pay applicable to the LD Clerks/Junior Clerks, as the case may be, plus one increment for each year of Army Service. But that benefit was not given to applicant in the matter of fixation of initial pay on the ground that the applicant has been directly

entertained as UD Clerk and not as LD Clerk/Junior Clerk to whom alone the benefit of the past service has been directed to be taken into account in the matter of fixation of pay. The applicant ~~originally~~ made ~~the~~ representations to his higher authorities, but in vain. Later, he made his representations ^{Central} to the Board of Direct Taxes, but the same has also been rejected. Later on, the applicant submitted a representation dated 22.11.82 to the President of India through the department, but that representation has been with-held by the Commissioner of Income-tax, Cochin, Ernakulam on the ground that the matter has already been duly considered by the Board and ^{not that} rejected ~~as~~ the representation dated 22.11.82 does not contain any new material or fresh facts and ^{that} ~~therefore~~ ^{there is} ~~felt~~ no necessity for reconsidering the earlier decision taken by the Board.


2 The applicant has ^{hereafter} ~~thus~~ come up before this Tribunal by filing this application under Section 19 of the Administrative Tribunal's Act of 1985. Though the applicant has prayed for many reliefs, the learned counsel for the applicant, at the time of ~~advancing~~ his arguments, restricted his claim for a direction to the Third Respondent to forward

his representation dated 22.11.82 which ~~was~~
~~with-held by him~~ to the President of India for
consideration on merit. Hence, it is unnecessary
for the Tribunal, at this stage to *go* into the
merits of the various contentions raised in
the application.

3 According to the learned counsel for the
applicant, once he has filed a representation to
the President, the ~~application~~ *same* cannot be with-held
thus depriving the applicant ~~from getting the~~ *of a benefit*
~~decision~~ of the President's consideration *of his claim on*
merits. On perusal of the communication dated
1.3.83 from the Third Respondent, against which
the applicant *is* aggrieved, indicates that his
representation addressed to the President has been
with-held merely ~~for~~ the reason that the decision
has been taken by the Board ~~to reject~~ *the same claim and*
~~as~~ there were no new facts for consideration.

Since the applicant has addressed his representation
to the President of India and it *has been only* ~~is only~~ routed
through the ~~Third~~ Respondent, the ~~Third~~ Respondent
is not justified in with-holding the same, *it* ~~and~~ should
have been forwarded to the President of India for
consideration on merits, *especially when* ~~wherein~~ the applicant has

^{out}
pointed the hardship and anomalies caused to him
by not granting the similar benefits as has been
^{as per}
given ~~vide~~ Government of India, Ministry of Finance,
Deptt. of Expenditure OM No.6(8)-E(iii)/63 dated
11.4.1963 in regard to fixation of pay of Ex-Combatant
clerks retired/released from service in the Armed
Forces on re-employment as LD Clerks/Junior Clerks
in civil posts. ^{and seek a special order from the President of India as contemplated in F.R. 27 for grant of the increments} In this view of the matter, without
^{into} going to the merits of the various contentions raised
by the applicant in this case, the Third Respondent
is hereby directed to forward the applicant's
representation dated 22.11.82 to the President of
India for his due consideration.
4 With this direction, the application is disposed
of, ~~accordingly~~.


(G Ramanujam)
Vice Chairman
30.12.87

Index: Yes/No
