

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Dated the Twenty Ninth day of September, Nineteen hundred and eighty eight.)

Original Application No.285/87

PRESENT

Hon'ble Shri S.P. Mukerjee - Vice Chairman

P. Kunjukrishnan Nair .. Applicant

Versus

1. The Director General,
Department of Telecom,
New Delhi.
2. The General Manager,
Telecommunications,
Trivandrum.
3. The Divisional Engineer,
Telegraphs,
Thiruvalla. .. Respondents

Counsel for applicant .. Mr. KRB Kaimal.

Counsel for respondents .. Mr.K.Karthikeya
Panicker.

ORDER

(Pronounced by Hon'ble Shri S.P.Mukerji, Vice Chairman)

The facts of this case lie within a narrow compass and can be summarised as follows:
The applicant retired on 12.8.1964 from the service of Indian Navy with a pension of Rs.38/- per month. He commuted Rs.18/- of his pension on 23-12-64 and received the commuted value

of this amount at Rs.3732.50. His pension was reduced to Rs.20 per month. He was reemployed as Junior Engineer in the Telecom Department on 15.8.71 and confirmed as such with effect from 1.3.76 by an order dated 4.2.78. In accordance with Rule 19(1) of the CCS (Pension) Rules a military pensioner reemployed in Civil services and getting confirmed therein has a right of option either to continue to draw the military pension or to cease to draw pension in which case the military service is added to the civil service for the purpose of civil pension. In the latter case he has to refund the pension and gratuity already drawn as also ^{the} ~~value~~ received for the commutation of a part of military pension. It is also provided in the same rule that the pension drawn prior to the date of reemployment in civilian service shall not be required to be refunded. The applicant was not called upon to exercise option when he was confirmed by the order of 1978. However, he submitted his option on 17.4.82 giving up the military pension and this option was accepted with effect from

1.8.82. The applicant was directed to refund an amount of Rs. 6364.50, which he did in 35 monthly instalments. On the day previous to the date of his voluntary retirement on 30.9.86 the applicant was asked to refund a further amount of Rs.5984.45. This amount was revised to Rs.4998.20. The applicant refunded this amount also so that his military service is also reckoned for purposes of his pension. The applicant claims that besides Rs.4998.20 an excess of Rs.1425.50 had been recovered from him making a total of Rs.6433.70. He wants this amount to be refunded. The plea is that for the period between ~~23.12.64~~ the date of retirement, and 15.8.71 the date of reemployment, he was not liable to refund the pension received by him. He would also be entitled to receive back Rs.18 per month of ^{commuted} pension during this period. He has also pointed out a similar case of one Shri C.P.Narayana Kurup who was given the benefit which was denied to the applicant.

2. The respondents have accepted the factual position as indicated above and indicated that the applicant continued to draw the residual military pension of Rs.20 per month during the period of his reemployment. He was asked to refund Rs.6364.50 being the sum total of the value of the commuted part of pension and the residual pension received by him during the period of reemployment. The respondents conceded that further recovery of Rs.4998.85 was not called for and it was already refunded to him vide ^{the} cheque _^ of 25.8.87.

3. I have heard the arguments of the learned counsel for both the parties and gone through the documents carefully. The only question that remains is whether the applicant is entitled to get full pension of Rs.38 per month between 23.12.64 when he commuted part of his pension, and 15.8.71 when he was reemployed, once he had refunded Rs.3732.50 which is the value of pension commuted. The proviso of Rule 19(1) of the C.C.S (Pension) Rules makes it clear that if the pensioner opts to add his

military service for pension by refunding the pension already drawn he is not required to refund the pension drawn prior to the date of reemployment. During the period between 1964 and 1971 when he was not re-employed he was allowed the residual pension of Rs.20 per month but in accordance with the aforesaid proviso he was entitled to the full pension of Rs. 38 per month during this period since he had refunded the commuted value of pension received. This amount according to me has to be refunded to the applicant. Accordingly I allow the application with the direction that the applicant is entitled to get the refund of the commuted portion of his pension of Rs.18 per month reckoned from 23.12.64 to 14.8.71. This amount should be refunded to the applicant within a period of three months from the date of communication of this order.

4. There will be no order as to costs.

S.P. Mukerjee 29.9.88
(S.P. Mukerjee)
Vice Chairman
29.9.88

Sn.