

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A.No.290/94

Monday, this the 25th day of April, 1994

SHRI S KASIPANDIAN, MEMBER(A)

K Gopalakrishnan Nair,  
Commercial Clerk,  
Southern Railway,  
Kuttipuram.

- Applicant

By Advocate Mr M Rajagopalan

Vs.

1. Divisional Personnel Officer,  
Southern Railway, Palakkad.
2. Financial Adviser & Chief  
Accounts Officer, Park Town,  
Southern Railway, Madras-3.
3. Officer-in-Charge,  
Records, Air Force Record Office,  
Suproto Park, New Delhi. - Respondents

By Advocate Mr George Joseph, ACGSC

O\_R\_D\_E\_R

Applicant is an Ex-serviceman and after discharge, he was re-employed in the Railway Department. He had put in 21 years of service in the Air Force from 12.3.1960 to 31.3.1981. The last pay he was drawing at the time of discharge was Rs.540/-. After retirement, he was granted a pension of Rs.342/- per month. When he was re-employed on 4.11.1985 as Commercial Clerk in the Railway Department, his pay was fixed in the scale of Rs.260-430. Since he was not an officer at the time of discharge from Air Force, he was governed by the O.M.No.2(1)/83/D(Civ.1) dated 8.2.1983 for the purpose of fixation of pay.

He was entitled to get the entire pension ignored while fixing his re-employment pay. This position has been confirmed by the Hon'ble Tribunal in O.A-3/89 and several other similar O.As.

The prayer of the applicant is to direct the respondents to fix his pay on re-employment protecting his last pay drawn ignoring his entire pension with effect from 4.11.1983 and also to grant him all consequential benefits.

2. The learned counsel for respondents while admitting the facts of the case submitted that the request of the applicant will be considered by the respondents subject to the final outcome of the appeal pending before the Supreme Court in O.A-3/89.

3. Having heard the learned counsel on both sides, it is felt that it would be appropriate to give a direction to the respondents 1&2 to consider the request of the applicant for refixation of pay following the principle laid down in the judgement in O.A-3/89 subject to the final outcome of the appeal pending before the Hon'ble Supreme Court. Accordingly, I allow the application and direct the respondents 1&2 to refix the pay of the applicant ignoring the pension due to him and also allow the consequential benefits in accordance with law, subject to the final outcome of the SLP pending before the Hon'ble Supreme Court. There will be no order as to costs.

Dated, this the 25th day of April, 1994.

*S. Kasipandian*  
( S KASIPANDIAN )  
MEMBER(A)