

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.366/2000

Wednesday this the 24th day of April, 2002.

CORAM

HON'BLE MR. G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER
HON'BLE MR.K.V.SACHIDANANDAN, JUDICIAL MEMBER

1. P.R.Sivasankaran Nair
Asha Sadan (Poonthottathil)
Temple Road, Perunnai
Changanacherry.
2. K.Chekkappan
Rohini Nivas
Ithithanam P.O.
Changanacherry.

Applicants.

(By advocate Mr.C.S.G.Nair)

Versus

1. Commissioner of Central Excise & Customs
Cochin I Commissionerate
Central Revenue Buildings
I.S.Press Road
Cochin - 682 018.
2. Union of India rep. by
Secretary
Department of Personnel & Training
Ministry of Personnel
Public Grievances & Pension
New Delhi.

Respondents.

(By advocate Mr.C.Rajendran, SCGSC)

The application having been heard on 24th April, 2002, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR.G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

Applicants, two in number, have filed this Original Application seeking the following reliefs:

- i. To revise the pay and pension as per Annexure A1.
- ii. To draw and disburse the arrears of pay, DCRG, Balance of leave salary encashment, commutation etc. within a stipulated time.
- iii. To sanction revised pension.
- iv. To grant interest at the rate of 12% for the arrears of pay, DCRG, commutation, leave salary etc.



v. To grant such other relief as may be prayed for and this Hon'ble Tribunal may deem fit to grant and
vi. Grant cost of this OA.

2. Applicants are retired personnel from the office of the 1st respondent. Both are ex-servicemen and on retirement from Army both of them joined the Central Excise & Customs Department as operators in Telecommunication Wing. First applicant retired from Central Excise on 31.1.91. He was in the Army from 1953 to 1974. Second applicant joined the Army in 1949 and retired from the Army in 1974. He joined the Central Excise Department as Operator (Telecommunication) in 1975 and retired from service on 31.10.90. On re-employment, pay of ex-servicemen was fixed as per Article 526 of the Civil Service Regulation and the Government of India's instructions issued from time to time. A part of the pension was ignored for fixing the initial pay. They challenged the pay fixation in T.A. No.388/86 and this Tribunal allowed the application. The Hon'ble Supreme Court upheld the decision of this Tribunal. Accordingly A-1 order dated 14.10.97 was issued by the Department of Personnel & Training. Applicants claimed revision of pay and pension in accordance with A-1. As they did not get any response to their A-2 and A-3 representations dated 15.11.99 and 22.11.99 respectively. The applicants further submitted that one Sri M.D.Radhakrishnan Nair who was a co applicant in T.A. No.388/86 had filed O.A.No.1011/99 and the said OA was allowed by this Tribunal by A-4 order dated 8.2.2000.



3. Respondents filed reply statement. They admit the factual particulars about the employment of the applicants. They also admit that the first applicant had approached this Tribunal through T.A.No.388/86 but they submit that A-2 & A-3 representations were not found received by the first respondent. It was submitted that as far as the first applicant was concerned, his pay was refixed as per O.M. No.3/9/87 Estt. Pay.II dated 11.9.87 taking into account the revised military pension from 1.1.86 to 31.1.91 and over payment initially noticed amounting to Rs.18,758 owing to the above fixation was recovered by adjustment of Rs.12,300 from his DCRG Bill No.541/91-92 and Rs.6,458/- from his leave encashment Bill No.540/91-92. The amount recovered was subsequently refunded to him in terms of order dated 31.10.89 of this Tribunal in T.A.No.388/86 filed by the applicant and others vide Bill No.26/94-95 for Rs.12,300 and Bill No.27/94-95 for Rs.6,458. They enclosed photocopies of the said bills as R1(A) and R1(B). It was submitted that the benefits contained in OM dated 14.10.97 (A-2) had been implemented in the case of the first applicant and hence there was no question of further revision as far as the first applicant was concerned. According to them the applicants were not at all similarly situated retired employee like Sri M.D.Radhakrishnan Nair, the petitioner in OA No.1011/99 and therefore the contents of the order dated 8.2.2000 were not at all applicable to the applicants.

4. Heard the learned counsel for the parties. Learned counsel for the applicants submitted that one of the applicants in OA 1011/99 Sri M.D.Radhakrishnan Nair had approached this

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Tribunal for similar benefits and this Tribunal had allowed the same directing the respondents to revise the pay of the applicant from 1.1.86 as per A-1 O.M. and to grant consequential benefits thereon, if entitled to as per A-1. He submitted that the applicants in this OA would be satisfied if such an order is issued in favour of the applicants in this OA also. He submitted that the only difference between the applicants herein and the applicant in OA 1011/99 was that the said applicant in OA 1011/99 retired only five months prior to the date of issue of A-1 O.M. and that his pay was revised consequent on the introduction of the Vth Central Pay Commission Report with effect from 1.1.96. Learned counsel for the respondents submitted that the representations of the applicants had not been received and the first applicant had been paid as stated in the reply statement.

5. We have given careful consideration to the submissions made by the learned counsel for the parties and the rival pleadings and have also perused the documents brought on record. As there is no dispute amongst the parties that both the applicants had approached this Tribunal in TA No.388/86 which was disposed of by this Tribunal in its order dated 31.10.89 and one of the applicants in that OA namely Sri M.D.Radhakrishnan Nair had approached this Tribunal through OA 1011/99 for the benefits flowing out of A-1 dated 14.10.97 and the main relief sought for in this OA is also the same, we are of the view that this OA can also be disposed of giving similar directions as contained in the order dated 8.2.2000 in OA 1011/99. In para 10 of this Tribunal's order in OA 1011/99, this Tribunal held as under:



"10. Accordingly, the 1st respondent is directed to revise the pay of the applicant from 1.1.86 as per Annexure A-1 and to grant consequential benefits thereon, if entitled to as per A-1, with interest at 12 per cent per annum from 1.1.98. This exercise shall be done within three months from the date of receipt of a copy of this order."

6. We find that A-1 referred to in the above order is the O.M. dated 14.10.97 issued by the Department of Personnel & Training and annexed as A-1 in this OA also. Even though the respondents have stated that they have settled the claim of the first applicant, the learned counsel for the applicant submitted that according to his instructions the applicants have not received the benefits flowing out of the OM dated 14.10.97. As this is to be verified on the basis of the facts, the respondents may check this aspect from their records and if the first applicant has already received the dues on the basis of the O.M., then the said applicant would not receive anything. Otherwise, to the extent received by him they can make the adjustment.

7. In the result, we dispose of this OA with the following directions:

- i. First respondent is directed to revise the pay of the applicants from 1.1.86 as per A-1 and to grant consequential benefits thereon, if entitled to as per A-1 with interest at 12% per cent per annum from 1.1.98.
- ii. If pursuant to A-1 the respondents have already made payment to the applicants in that case the applicants would not be entitled to any payment.
- iii. If payment is due, the same should be made within a period of three months from the date of receipt of a copy of this order.
- iv. If in case the payment is not due the same should be explained to the applicants by a detailed order within three months from the date of receipt of a copy of this order.

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8. The OA stand disposed of as above with no order as to costs.

Dated 24th April, 2002.



K.V. SACHIDANANDAN
JUDICIAL MEMBER



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER

aa.

APPENDIX

Applicant's Annexures:

1. A-1 : A true copy of the O.M.No.3/15/94-Estt (P_{ay} II) dated 14.10.97.
2. A-2 : A true copy of the representation dated 15.11.99 sent by the 1st applicant.
3. A-3 : A true copy of the representation dated 22.11.99 sent by the 2nd applicant.
4. A-4 : A true copy of the order dated 8.2.2000 in OA No.1011/99 filed before the Hon'ble C.A.T.

Respondents' Annexures:

1. R-1A: Photo copy of the Bill No.26/94-95 for Rs.12,300/-.
2. R-1B: Photo copy of the Bill No.27/94-95 for Rs.6,458/-.

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