

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 378
T. A. No.

1991

DATE OF DECISION 31.10.91

T. R. Sreedharan Pillai Applicant (s)

Mr. P. Sivan Pillai Advocate for the Applicant (s)

Versus

Union of India through the Respondent (s)
General Manager, Southern Railway,
Madras-3 and ~~one~~ others

Ms. Sumathi Dandapani Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. N. V. KRISHNAN, ADMINISTRATIVE MEMBER

The Hon'ble Mr. N. DHARMADAN, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. To be circulated to all Benches of the Tribunal? *Yes*

JUDGEMENT

MR. N. DHARMADAN, JUDICIAL MEMBER

The applicant is aggrieved by the refusal of the respondents to re-fix his pay in accordance with Government orders provided for fixation of pay of the re-employed ex-serviceman as interpreted by the Full Bench of this Tribunal in O.A. 3/89 and connected cases.

2. The applicant who retired from Indian Air Force on 31.5.1976 after rendering 21 years of service as TEL-RT-OPR, was re-employed as a Junior Clerk in the Southern Railways w.e.f. 1.3.1978. The applicant was drawing Rs. 460/- (pre-revised) as his pay at the time of

retirement from Air Force. His monthly pension was fixed at Rs. 186/- On re-appointment in the post of Junior Clerk the pay of the applicant was fixed at Rs. 260/- which according to the applicant is the minimum of the scale and is contrary to the orders issued by the Government and considered in O.A. 3/89 and connected cases decided by the Full Bench. Since his pay has not been fixed in accordance with the principle laid down by the Full Bench of this Tribunal, the applicant submitted several representations to the authorities for proper fixation of his pay. This has not been done. Hence the applicant filed this application with the following reliefs:

- "(a) to call for the records leading to Annexure A-2 and quash the same.
- (b) to direct the respondents to fix the pay of the applicant in scale Rs. 260-400 at a higher stage by allowing one increment for each completed year of service of the applicant in the Air Force prior to his release and without taking into account his pension/pensionary equivalent, with all attendant benefits and
- (c) to issue such other orders or direction as deemed fit and necessary by this Hon'ble Tribunal in the facts and circumstances of this case."

3. The respondents 1 to 3 have filed counter affidavit in which they have submitted that the initial pay of the applicant on re-employment has been fixed in accordance with Railway Board's letter dated 31.3.1959 and other letters. It is contended that as per the above letters initial pay of re-employed person should be fixed at the

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minimum stage of the scale of pay prescribed and that in case the fixation of initial pay of the re-employed person at the minimum of the prescribed pay scale will cause undue hardship then only the pay of the re-employed person will be fixed at a higher stage by allowing one increment of each year of service which he had rendered before retirement in a post not lower than that in which he is re-employed. It is contended that no undue hardship is caused to the applicant in the instant case and hence his pay cannot be fixed as claimed by him.

4. Today when the case was taken up for final hearing the learned counsel for the respondents is not in a position to distinguish the facts of this case from that of the facts in O.A. 3/89 and other connected cases. *He agreed that his judgment applies to this case. 4*


5. Having considered the matter we are of the view that the claim of the applicant for re-fixation of his pay is squarely covered by the decision of the Full Bench of this Tribunal in O.A. 3/89 and connected cases. Hence this case can be disposed of following the principles laid down by the Full Bench. The relevant portion of the judgment of the Full Bench in O.A. 3/89 is extracted below:

- " (a) We hold that for the purpose of granting advance increments over and above the minimum of the pay scale of the re-employed post in accordance with the 1958 instructions (Annexure-IV in O.A. 3/89) the whole or part of the military pension of ex-servicemen which are to be ignored for the purpose of pay fixation in accordance with the instructions issued in 1964, 1978 and 1983 (Annexures V, V-a and VI respectively), cannot be taken into account to reckon whether the minimum of the pay scale of the re-employed post plus pension is more or less than the last military pay drawn by the re-employed ex-servicemen.

- (b) The orders issued by the respondents in 1985 or 1987 contrary to the administrative instructions of 1964, 1978 and 1983 cannot be given retrospective effect to adversely affect the initial pay of ex-servicemen who were re-employed prior to the issue of these instructions."

5. Accordingly, we quash Annexure-A-2 order and direct the second respondent to re-fix the pay of the applicant in the re-employed post taking into consideration the principles laid down by the Full Bench of this Tribunal in this behalf in O.A. 3/89 and connected cases. We also direct that the respondents shall disburse to the applicant arrears of pay and allowances due to the applicant for a period ^{commencing from a date which} ~~is~~ three years ^{from the date of claim.}

6. The application is accordingly disposed of. There will be no order as to costs.


(N. DHARMADAN)
JUDICIAL MEMBER


(N. V. KRISHNAN)
ADMINISTRATIVE MEMBER

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH.

R.A. 57/92 in

~~OCAXXNB.~~
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OA 378/91

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DATE OF DECISION

28-5-92

Union of India and others

Applicant(s)/respondents in O.A

Smt. Sumathi Dandapani

Advocate for the Applicant (s)

Versus

T.R. Sreedharan Pillai

Respondent (s)

Shri P. Sivan Pillai

Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. N.V. Krishnan, Member(Administrative)

The Hon'ble Mr. N. Dharmadan, Member(Judicial)

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? No
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. To be circulated to all Benches of the Tribunal? No

JUDGEMENT

N. Dharmadan, M(J)

This Review Application has been filed by the respondents in the Original Application 378/91.

2. On going through the judgment we see neither any error nor any mistakes in the judgment which requires to be reviewed as prayed for in this Review Application filed by the respondents. We have only followed the Full Bench decision in OA 3/89 and connected case in our judgment. Even in the Review Application they have no case that the

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Full Bench decision does not apply to the facts of the case.

The grounds raised in the Review Application were dealt in

the Full Bench judgment. Hence we see no merit in this

Review Application warranting any interference and reopening

of our judgment dated 31-10-91. It is only to be rejected.

Accordingly, we do so.

N. Dhamadan
28.5.92

(N. Dhamadan)
Member (Judicial)

N.V. Krishnan
28/5/92

(N.V. Krishnan)
Member (Administrative)

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