

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA 398/98

Friday this the 24th day of November, 2000.

CORAM

HON'BLE MR. A.M.SIVADAS, JUDICIAL MEMBER
HON'BLE MR. G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

P.T.Gopalakrishnan Nair
Assistant Store Keeper
Naval Stores Depot
Naval Base, Cochin.

Applicant.

By advocate Mr. M.Rajagopalan

Versus

1. Flag Officer Commanding-in-Chief
Southern Naval Command
Headquarters, Cochin.
2. Chief of Naval Staff
Naval Head Quarters
New Delhi.
3. Officer 1/c Air Force Records
Air Force Record Office
Subrote Park, New Delhi.

Respondents

By advocate Mr. Govind K.Bharathan, SCGSC

The application having been heard on 24th November, 2000, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.M.SIVADAS, JUDICIAL MEMBER

Applicant seeks to direct the respondents to fix his reemployment pay protecting his last pay of Rs.307/- p.m. with all consequential benefits and to declare that he is entitled to get his reemployment pay fixed protecting his last pay and ignoring the entire pension.

2. Applicant is now working as Assistant Store Keeper under the first respondent. He is a reemployed ex-serviceman. Before joining as Assistant Store Keeper he served in the Air Force for one and half decades from 21.10.63 to 31.10.78. His last pay in the Air Force was Rs. 307/- per month. He was reemployed as Assistant Store Keeper in the scale of Rs.

260-400. The proposal for refixation of his pay was accepted by the Deputy Controller of Defence Accounts, Kochi as per A1. By that time the judgement in OA No.3/89 by a full bench of this Tribunal allowing the claim of pay fixation by similar reemployed ex-servicemen was there. Respondents approached the Apex Court by filing SLP against the judgement in OA 3/89. That SLP was dismissed. Again the applicant represented as per A2. There is no reply.

3. Respondents **say** that there is no provision for protection of last pay drawn by reemployed pensioners. Grant of advance increments and fixing the pay at higher stage to mitigate the hardship factor as envisaged in the Ministry of Defence O.M. dated 15th July 1960 is not attracted in this case. The decision of the Apex Court in the SLP cannot be extended and applied to the applicant.

4. The finding of this Bench of the Tribunal in OA 3/89 is in favour of the applicant is not in dispute. There is also no dispute that the SLP filed by the Department against the judgement in OA 3/89 was dismissed. That being the position, what is held in OA 3/89 holds good.

5. A1 is the true copy of the proposal for fixation of the pay of the applicant on his reemployment as Assistant Store Keeper under the respondents. A1 is issued by the Deputy Controller of Defence Accounts, Kochi to the Chief of Naval Staff at New Delhi. The same says that agreeably to the provisions of the Ministry of Defence O.M. dated 15.7.60 the individual can be granted 7 increments in the reemployed post and his pay can be fixed at Rs. 302 in the scale of pay Rs.

260-6-290-EB-6-326-6-366-EB-8-390-10-400 in addition to pension but without adhoc relief so that the pay will not exceed pre-retirement pay of Rs. 307/-.

6. Learned counsel appearing for the applicant submitted that it is suffice to direct the respondents to fix the pay of the applicant as per A1. There is absolutely not a syllable against A1.

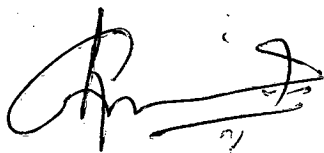
7. Respondents rely on the OM dated 8.2.83. That is also referred to in A1. Learned counsel appearing for the respondents submitted that there is nothing for the respondents to say against A1.

8. In that context respondents are to be directed to fix the reemployment pay of the applicant as per A1.

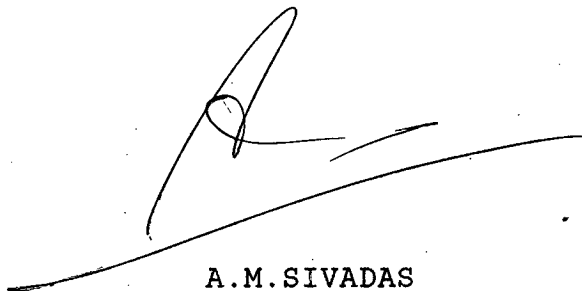
9. Accordingly respondents are directed to fix the reemployment pay of the applicant as. per A1 with all consequential benefits.

Original Application is disposed of as above.

Dated 24th November, 2000.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.M. SIVADAS
JUDICIAL MEMBER

aa.

Annexures referred to in this order:

- A1: True copy of order No.101/Civ/corr. dated 8.1.90 issued by Dy.Controller of Defence Accounts, Cochin addressed to 2nd respondent.
- A2: True copy of representation dated 12.5.97 submitted by applicant to 1st respondent.