

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH: BANGALORE

DATED THIS THE 5TH DAY OF DECEMBER, 1986.

PRESENT:

Hon'ble Mr. Justice K.S. Puttaswamy, .. Vice-Chairman.

And:

Hon'ble Mr. L.H.A. Rego, .. Member(A).

APPLICATION NUMBER 1688 OF 1986.

Udapi A. Baxi,
Age 45 years, Occ: CGS(P & T),
R/o Darbar Galli, Bijapur. .. Applicant.

v.

1. Government of India,
represented by Secretary,
Central Government of India,
New Delhi.
2. General Manager,
Telecommunication Karnataka
Circle, Bangalore.
3. Senior Superintendent of
Telegraph Traffic, Belgaum.
4. Assistant Superintendent of Telegraph,
Traffic, D.T.O., Bijapur. .. Respondents.

(By Sri M. Vasudeva Rao, Standing Counsel)

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This application coming on for hearing this day, Vice-Chairman made the following:

ORDER

In this transferred application received from the Court of Principal Munsiff, Bijapur under Section 29 of the Administrative Tribunals Act of 1985 ('the Act'), the applicant has challenged Order No.A.2/IR/ICO/Bj/84-85 dated 8-10-1984 of the Assistant Superintendent (TT)I/c, Departmental Telegraph Office, Bijapur (Superintendent).

2. On 12-2-1959 the applicant joined the Indian Army as a 'wireless operator'. He was discharged from the Army on 24-8-1966.

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3. On an application made by him, the applicant was appointed as a Telegraph Assistant on 2-9-1967 in the Posts and Telegraph Department of Government of India (P & T) from which date he is continuing to serve in that department subject to serving as a 'reservist'.

4. When the applicant retired from the Army he was drawing certain pension admissible under the Rules. On joining the P & T Department, the applicant moved the appropriate authority to count his military service also for purposes of pension in that Department or as a civilian employee of Government of India which was allowed by the authority on 7-4-1983. On that order the applicant became disentitled to draw pension he was drawing as a member of the Indian Army. But, still he drew a sum of Rs.8283/- as a military pension which is sought to be recovered by the Superintendent from him at the rate of Rs.235/- per month or in 36 equal monthly instalments. Hence, this application.

5. In the original suit filed the applicant had really sought for a declaration to invalidate the order dated 8-10-1984. But, at the hearing Sri Udapi A.Baxi who is the applicant and argued his own case, in our opinion, very rightly did not dispute his liability to repay the same and confined his submissions for instalments of Rs.100/- per month.

6. Sri M.Vasudevarao, learned Additional Central Government Standing Counsel appearing for the respondents opposes the repayment of the amounts at the rate of Rs.100/- per month.

7. We have earlier noticed that the total amount repayable by the applicant is Rs.8283-00.

8. At present the applicant is drawing a gross amount of Rs.1500/- and take home salary is Rs.1200/-per month. The applicant has a fairly big family to maintain. If the applicant were compelled

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to pay a sum of Rs.235-00 per month from out of the salary he draws, it would be somewhat difficult for him to maintain himself and his family. We are of the view that the amount of Rs.235/- allowed by the Superintendent as monthly instalments is excessive and is not commensurate to the salary drawn by the applicant. We are, therefore, of the view that Rs.100/- suggested by the applicant, when he has got another 10 years of service to retire is fair and reasonable and should be allowed by us.

9. In the light of our above discussion, we make the following orders and directions:-

- (a) We dismiss this application inso far as it challenges the recovery ordered by the Superintendent on 8th October,1984.
- (b) We, however,modify the order dated 8-10-1984 of the Superintendent and direct the respondents to recover the pension of Rs.8283/- from the applicant in instalments of Rs.100/- per month, the first instalment to commence from January,1987 and onwards.

10. Application is disposed of in the above terms. But, in the circumstances of the case,we direct the parties to bear their own costs.

11. Let this order be communicated to the parties within 10 days from this day.


VICE-CHAIRMAN


MEMBER(A)

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