

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH BANGALORE

DATED THIS THE 13TH DAY OF FEBRUARY, 1987

Present: Hon'ble Mr. Justice K.S.Puttaswamy, Vice-Chairman  
Hon'ble Mr. L.H.A. Rego, Member (A)

APPLICATION NO.496 OF 1986

K.Dhanapal,  
Security Assistant, Grade 'C'  
Gas Turbine Research Establishment,  
Bangalore-560075.

... Applicant.

(Shri S.R. Prakash, Advocate)

VS

1. The Director,  
Gas Turbine Research Establishment,  
Bangalore-560075.
2. C.D.A. (Controller of Defence Accounts).  
Bangalore.
3. Pension Pay Master,  
T.S.No.19385,  
Bangalore.
4. Union of India,  
Represented by Secretary to Government,  
Ministry of Finance,  
New Delhi.

... Respondents

(Shri M. Vasudeva Rao, Advocate)

This application coming on for hearing this day  
Shri Justice K.S.Puttaswamy, Vice-Chairman, made the following.

O R D E R

In this transferred application received from the High Court of Karnataka under Section 29 of the Administrative Tribunals Act, 1985(Act), the applicant has sought for a direction to the respondents to regulate the payment of his pension and salary in terms of an order made by the Government of India on 8.2.1983 (Annexure-D).

2. As early as on 31.12.1947, the applicant joined the Indian Army as a Sapper and thereafter, earned more than one promotion. He retired from service on 31.12.1979 as an Honorary Captain drawing a substantive pay of Rs.1100/- per month.

3. After his retirement from the Indian Army, on 23.10.84 the applicant was appointed as a Security Assistant 'C'(SAC) in the office of the Director, Gas Turbine Research Establishment, Bangalore, (Director) in the time scale of pay of Rs.260-350. As SAC, his pay was fixed at the maximum of Rs.350/- per month on the basis of his previous service in the Indian Army.

4. From 23.10.1981 to 24.3.1984, the applicant apart from drawing the salary attached to the post of SAC fixed by the Director, had also drawn the pension and the pension relief granted to him as a pensioner of the Indian Army. On an examination of the drawal of salaries, pension and pensionary reliefs during the aforesaid period by the applicant, the Audit authorities held that he had drawn excess amount during that period and directed its recovery. from him and in compliance of the same, the Director had recovered a sum of Rs.9417-75 from the applicant. In Writ Petition No.6116 of 1985, filed before the High Court, the applicant challenged the same on diverse grounds.

5. Among others, the applicant had urged that the payments made to him from 30.10.1981 to 24.3.1984 were in conformity with the Rules and orders in force and that there was no justification whatsoever, to recover the amount of Rs.9417-75 from him. In their reply, the respondents have justified their action and recovery.

6. Shri S.R.Prakash, learned Counsel for the applicant, contends that all payments made from 30.10.1981 to 24.3.1984 were in conformity with the Rules and Orders made by Government from time to time, in particular, the order made by Government on 8th May, 1983(Annexure-D) and therefore the recovery of Rs.9417-75 from his client was illegal and unjustified.

7. Shri M.Vasudeva Rao, learned Counsel for the respondents, sought to support the recovery made from the applicant.

8. We have carefully read the order made by Government on 8.5.1983 on which strong reliance is placed by Shri.Prakash. We are of the view that the said order does not, assist the applicant to hold that the recoveries made were illegal. We therefore eschew the same to determine the question.

9. In their reply, the respondents have furnished all the necessary details to support the recoveries made from the applicant. We are of the view that the grounds on which the respondents have found that the applicant had drawn excess amounts and the same was liable to be recovered from him, cannot at all be characterised as illegal, whimsical, arbitrary or opposed to the Rules and orders in force. From this it follows that the case of the respondents that there has been excess payment to the applicant has necessarily to be accepted by us. If that is so, then the recoveries have necessarily to be upheld by us.

10. But our earlier conclusion does not mean, that Government cannot view the matter sympathetically, waive the excess payment and direct its refund to the applicant, who had rendered loyal and yeoman service as a member of the Indian Army from 30.12.1947 to 31.12.1977 and the recovery is necessitated on the ground that he did not have one full year of service, to his credit. We do hope and trust that the Government will do so.

11. In the light of our above discussions, we hold that this application is liable to be dismissed. We therefore dismiss this application. But in the circumstances of the case we direct the parties to bear their own costs.

*M.S. Pillai*  
Vice-Chairman  
13/2/82

*Ch. S. S.* (3.2.82)  
Member (AM)(R)