

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GULE STAN BIDG. NO. 6, 4TH FLR, PRESCOT RD, FORT,

MUMBAI - 400 001.

ORIGINAL APPLICATION NO: 708/93.

DATED THE 6TH DAY OF APRIL, 1999.

CORAM: Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman.

Hon'ble Shri D.S.Baweja, Member(A).

Hari Kodiba Vedi,
R/o. Bunglow No. 22, Cantonment Area,
Taluka & Dist. Aurangabad - 431 001.

... Applicant.

v/s.

1. The Central Provident Fund Commissioner,
Mayur Bhavan, 9th Floor, Cannaught Circle,
New Delhi-110 001.
2. The Regional Provident Fund Commissioner,
Bhavishya Nidhi Bhavan,
341 Bandra (East),
Bombay - 400 051.
3. The Sub-Regional Provident Fund Commissioner,
Jafar Gate, Mondha,
Aurangabad. ... Respondents

By Advocate Shri R.R.Shetty for Shri R.K.Shetty.

I O R D E R I

¶ Per Shri R.G.Vaidyanatha, Vice Chairman ¶

This is an application filed by applicant seeking fixation of pay. Respondents have filed reply opposing application. Today when the case is called out for Final Hearing, applicant and counsel absent. We have heard Shri R.R.Shetty on behalf of Shri R.K.Shetty for Respondents and perused the case file.

2. The applicant was earlier working in the Defence Service. He retired from defence service and the last drawn pay was Basic pay of Rs.245/- and other allowances. Now he has been reappointed as a Chowkidar in the Office of the second respondent, which he joined on 15/4/85. His basic salary was fixed at Rs.196/-. The applicant's grievance is that his basic pay should be Rs.245/- since he was receiving Rs.245/- basic pay in the erstwhile service in Defence. That

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is why he has sought relief of refixing his salary at Rs. 245/- as basic pay + admissible allowance with effect from 15/4/85 and the consequential benefits flowing from that.

3. Now when the OA is taken up for Final Hearing today, respondent's counsel brings to our notice that Government has since issued an order dated 13/7/98, which is now taken on record, in which the applicant's basic pay has been fixed at Rs. 232/- with effect from 15/4/85. The only difference is that applicant has asked for basic pay of Rs. 245/-, but he has been allowed Rs. 232/-. Learned counsel for respondents brings to our notice that for a Chowkidar as on 15/4/85 ~~xx~~ the maximum pay in the payscale was only Rs. 232/- and therefore he cannot be given higher than ~~maximum~~ in the scale to that post. Therefore, we find that order dated 13/7/98 substantially meets the prayer of the applicant.

4. The only other question to be considered is whether the applicant is entitled to arrears of emoluments on the basis of fixation of pay as per order dated 13/7/98. Though the applicant is entitled to notional fixation of pay from 15/4/85, as far as arrears are concerned, we feel that it should be restricted to one year prior to the filing of OA as held in an identical case by Learned Single Member of the Tribunal in OA-402/98 dated 14/2/98. This OA was filed on 30/4/93. One year back will take us to 30/4/92. Therefore, we direct that applicant should get arrears of pay only from 1/5/92.

5. In the result, OA is allowed partly. In view of the Government order dated 13/7/98, the applicant is entitled to fixation of pay of Rs. 232/- basic pay from 15/4/85. The applicant shall get notional benefit of fixation of pay on that basis from year to year but the arrears ~~are allowed from~~ 1/5/92 and onwards, and



not before. No order as to costs. Respondents to comply with the order within two months from the date of receipt of copy of this order.

D.S.Baweja
(D.S.BAWEJA)

MEMBER(A)

R.G.Vaidyanatha
(R.G.VAIDYANATHA)

VICE CHAIRMAN

abp.