

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO.: 538 OF 1998.

Date of Decision : 05.10.1998.

Cheriyen Padachira, \_\_\_\_\_ Petitioner.

Shri A. I. Bhatkar, \_\_\_\_\_ Advocate for the Petitioner.

VERSUS

Union Of India & Others, \_\_\_\_\_ Respondents.

Shri V. S. Masurkar and  
Shri R. R. Shetty, \_\_\_\_\_ Advocate for the Respondents.

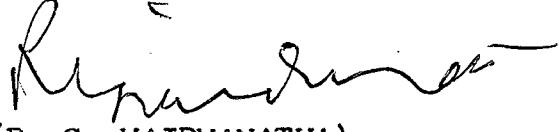
CORAM :

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

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

(i) To be referred to the Reporter or not ?

(ii) Whether it needs to be circulated to other Benches of the Tribunal ?

  
(R. G. VAIDYANATHA)  
VICE-CHAIRMAN.

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CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

ORIGINAL APPLICATION NO. 538/98.

Dated this Monday, the 5th day of October, 1998.

CORAM :

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

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

Cherian Padachira,  
(No. 6899770-Y) Hav. Clerk  
presently working as L.D.C.  
at INS, Kunjali.

Residing at -

B-40, 2nd Floor,  
Jagjivan Ram Hospital  
Compound, Mumbai Central,  
Mumbai - 400 008.

... Applicant

(By Advocate Shri A. I. Bhatkar)

VERSUS

1. Union Of India through  
The Secretary, /  
Ministry of Defence,  
DHQ P.O.,  
New Delhi - 110 011.
2. The Chief of the Naval Staff,  
Naval Headquarters,  
DHQ P.O.,  
New Delhi - 110 011.
3. The Flag Officer-Commanding  
-in-Chief, (Head Quarters)  
Western Naval Command,  
Shahid Bhagat Singh Road,  
Mumbai - 400 001.
4. The Officer-in-Charge,  
Naval Transport Pool,  
Colaba, Mumbai - 400 005.
5. The Controller of Defence-  
Accounts (Navy),  
Cooperage Road,  
Mumbai - 400 039.

... Respondents.

(By Advocate Shri V.S. Masurkar  
for Respondents 1 to 4.

By Advocate Shri R. R. Shetty for  
Respondent No. 5)

*[Signature]*

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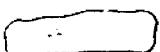
OPEN COURT ORDER

¶ PER.: SHRI R. G. VAIDYANATHA, VICE-CHAIRMAN ¶

In this application, the applicant is claiming fixation of pay taking into account the previous service of the applicant in the Army. He also prays for consequential increase in the pay on the recommendations of IVth Pay Commission and Vth Pay Commission and the payment of arrears. The respondents have filed reply opposing the application.

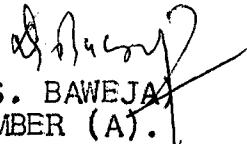
2. At the time of hearing, it is seen that Respondent No. 5 has almost admitted the claim of the applicant but took one objection, namely - that the applicant has not refunded the service benefits received after retirement from the Army and therefore, his claim for fixation of pay in the present job could not be considered. Today, the Learned Counsel for the applicant has brought to our notice that on 17.09.1998 the applicant has deposited whatever balance that was due towards the service benefits on retirement from Army. In view of this, the respondents cannot have any objection for fixing the pay of the applicant and for payment of arrears on the basis of IVth Pay Commission Report and Vth Pay Commission Report. The Learned Counsel for the respondents made a submission that since there was delay on the part of the applicant in exercising the option, the matter has to be processed at the ministry level for condoning the delay and for sanctioning the payment.

The applicant has not claimed any interest for the delayed payment. We may also notice that the delay occurred because the applicant delayed in exercising option. But now that the applicant has deposited the entire retirement benefits which he got

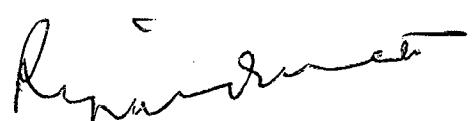


when he retired from the army service, he is now entitled for fixation of pay as prayed for in the O.A.

3. In the result, the O.A. is disposed of at the admission stage by directing the respondents to refix the pay of the applicant and to pay whatever arrears due to him as per rules. The respondents are directed to comply with this order within a period of four months from the date of receipt of this order. In the circumstances of the case, there will be no order as to costs.

  
(D. S. BAWEJA)

MEMBER (A).

  
(R. G. VAIDYANATHA)  
VICE-CHAIRMAN.

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