

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

N E W D E L H I
Hyderabad

O.A. No. 248
TAXX No.

198 7.

DATE OF DECISION 26th August, 1988

C. Chowdappa

Petitioner

Mr. T. Jayant

Advocate for the Petitioner(s)

Versus

The DG (Posts), Deptt. of Posts Respondent
New Delhi & 2 Others

Mr. N. R. Devaraj, Addl. CGSC Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. K. MADHAVA REDDY, J.
(sitting single)

The Hon'ble Mr. xx

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement? Yes
4. Whether it needs to be circulated to other Benches of the Tribunal? No

The applicant herein is an ex-serviceman who was re-employed prior to 25th January, 1983, at a time when O.M.No.2(7)/78/6664D(Civ-I) dated 30-8-1978 was in force. It is his grievance that his pay was not fixed after obtaining his option in accordance with the said O.M. In the mean while, O.M.No.2(1)/83/D/Civ-I) dated 8th February, 1983 was issued by which it was directed that in the case of those ex-servicemen retiring before attaining the age of 55, the pension as indicated below may be ignored in fixing their pay on re-employment :

(i) In the case of service officers, the first Rs.250/- on pension;

(ii) In the case of personnel below Commissioned Officer's rank, the entire pension.

Admittedly, the applicant is an officer below the rank of Commissioned Officer. His pension was fixed at Rs.150/-. After this O.M. was issued, he was asked to exercise his option and he has exercised his option to be governed by O.M. dtd.8-2-1983 and the instructions issued thereunder. This O.M. inter alia directs (i) that the orders contained therein will take effect from 25th January, 1983 and (ii) that the existing limits of military pensions to be ignored in fixing the pay of re-employed pensioners will, therefore, cease to be applicable to cases of such pensioners as are re-

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employed on or after that date. This portion of the O.M., therefore, will not apply to the applicant. This O.M. further directs that in the case of persons who are already on re-employment, the pay may be refixed on the basis of these orders with immediate effect provided they opt to come under these orders. The petitioner has opted to come under these orders. Therefore, his pay has to be refixed in accordance with the O.M. dated 8-2-1983 irrespective of whether it was fixed under the O.M. of 1978 or not. O.M. No. 1983 further directs that if they so opt, their terms would be determined afresh as if they have been re-employed for the first time from the date of these orders. The petitioner having exercised his option to be governed by this O.M., his pay has to be refixed in terms of this O.M. But inasmuch as this O.M. is not given retrospective effect from the date of his re-employment, for the period commencing from the date of his re-employment upto 25th January, 1983, his pay would have to be fixed under the then extant rules and instructions and since the applicant has opted to be governed by the latest O. M. dated 8-2-1983, on and from 25th January, 1983, his pay will have to be refixed under this O.M. and the instructions issued thereunder, as if he has been re-employed for the first time from the date of effect of these orders, that is, 25th January, 1983. The respondents

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[Signature]

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shall accordingly refix his pay for the period upto 25th January, 1983 under the O.M. dated 30-8-1978 and for the period subsequent thereto in accordance with the O.M. dated 8-2-1983 and the rules and instructions issued thereunder. If any amount has to be paid to the applicant on such refixation of pay, the same shall be ascertained and paid to the applicant. If any recoveries have to be affected, it is left to the respondents to take such action as they deem fit.

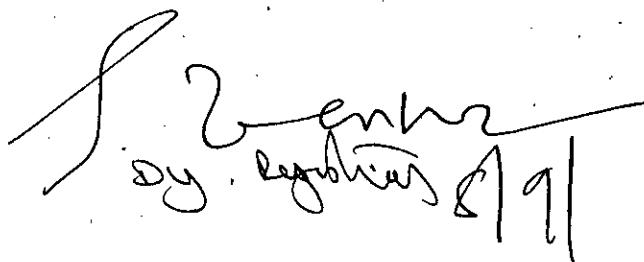
2. This application is allowed to the extent indicated above. There will be no order as to costs.

(dictated in open court)


(K. MADHAVA REDDY, J.)
Chairman.

26th AUGUST, 1988.

RSR°


S. Venkateswara Rao
26th August 1988


S. Venkateswara Rao