

(41)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.338/92

DATE OF JUDGEMENT: 26-3- 1993

Between

A. Gopala Rao

.. Applicant

and

1. Secretary,
Min. of Communications
New Delhi-1.

2. Postmaster General
Visakhapatnam Region
Visakhapatnam

3. Superintendent of Post Offices
Vizianagaram Dvn
Vizianagaram

.. Respondents

Counsel for the Applicant

: Mr T.Jayant

Counsel for the Respondents

: Mr NV Ramana,CGSC

CORAM:

HON'BLE SHRI T. CHANDRASEKHARA REDDY, MEMBER(JUDL.)

JUDGEMENT

This is an application filed under Section 19 of the Administrative Tribunals Act, to direct the respondent to re-fix the pay of the applicant on his re-employment as Postal Assistant in the pay scale of Rs.260-480, taking into consideration his 5 years completed ~~in~~ Military Service with all consequential benefits and pass such other orders as may deem fit and proper in the circumstances of the case.

2. The facts giving rise to this OA in brief, may be stated as follows:

..2

T. Jayant

P-8

(LP2)

..2..

3. The applicant was enrolled in the Army on 18.2.71 and was discharged on 16.7.76 (A/N). The applicant from 18.2.71 to 16.7.76 had worked as Signal man. His basic pay at the time of discharge from Military service was Rs.225/- in the scale of Rs.205-5-265. The applicant retired from the Military service voluntarily on compassionate grounds. After retirement, the applicant was re-employed as Postal Assistant w.e.f. 26.4.77 in the Visakhapatnam Division. He was transferred to Vizianagaram Division on 26.9.78 under Rule 38 of P&T Manual Vol.IV. The applicant's pay was fixed at Rs.260/- in the scale of Rs.260-480, on re-employment as Postal Assistant. It is the case of the applicant, that he is liable to have his pay re-fixed taking into account, his 5 years of Military service by giving 5 advance increments under the Provision of FR 27 read with Min.of Finance OM No.8(34) Estt. dated 25.11.58. The applicant put in representations dated 24.10.87, 2.5.90 and 28.8.90 to the competent authority, to consider his service in the army and sanction him 5 advance increments in the re-employed post of Postal Assistant and revise his pay accordingly in the post of Postal Assistant, w.e.f. 26.4.77 and with all consequential benefits. As per orders dated 19.4.90, the Postmaster General, Visakhapatnam, rejected the claim of the applicant for refixing his pay as claimed by the applicant. So, the present OA is filed for the relief(s) as already indicated above.

4. Counter is filed by the respondents opposing this OA.

T. C. N.

..3

P. J.

148

..3..

5. We have heard Mr T.Jayant, counsel for the applicant and Mr NV Ramana, Standing counsel for the respondents.

6. We have gone through Para 16 of the Min. of Personnel ~~Public Grievances and Pensions~~, (Deptt. of Personnel and Training) OM No.3/1/85/Estt.(P.II) dated 31.7.86 forwarded under Director General P&T in Lr.No.1-6-86-PAP dated 14.12.86. We have also gone through the Govt. of India orders with regard to the pay fixation of the year 1974. From both the orders, it is quite evident that only ex-combatant clerks/Storemen who had worked in the Armed Forces have got to be treated as equivalent to service as LDC/Junior Clerk and Storemen respectively. In civil posts, irrespective of the pay drawn in the armed forces, Initial pay in such cases has to be fixed in the time scale of re-employed post, at the a stage equivalent to the stage, that would have been ~~reached~~ reached by putting in the civil posts, the number of years of service rendered in the posts in the Armed forces. Ex-combatant clerks/storemen discharged on compassionate grounds are also entitled for the said benefit on their completed years of service in the armed forces. But, as could be seen, the applicant herein was a signal man and he had not at all worked as combatant clerk/storeman in the army. So, the applicant certainly, is not entitled to the benefit of the said OM, referred to above. Hence, the application filed by the applicant is liable to be dismissed.

T. V. Ramana

..4..

P322

(HPL)

..4..

7. The learned counsel appearing for the applicant maintained, that the applicant had been working in a post equivalent to Class III in the army (post of Signal man is equivalent to Class III) and that the post of Postal Assistant is also Class III post, and so, as the applicant, at present is working in a post equivalent to Class III post, which he had formerly held in the Army, that the applicant has got to be given the benefit of 5 increments on the basis of completed 5 years of service in the armed forces.

8. The posts that are entitled to the benefit of advance increments in the Armed Forces under the said OMs are categorised as ex-combatent clerks/storemen. We are not concerned here as to which class of post the applicant formerly belonged while working in the army, and in which class of post the applicant is working at present. Admittedly, the applicant does not come within the category of ex-combatent clerk/storemen for giving the benefit of the said OMs. Hence, we see no force in the contention of the learned counsel for the applicant as the applicant is holding a equivalent post to the one which he was holding in the army, that the applicant is entitled for the advance increments in the present post.

9. The learned counsel appearing for the applicant relied on a Judgement passed in Writ Petition No.3104 of 1980 on the file of the Hon'ble High Court of AP in which one Gopi Chand was the Petitioner. The said Writ Petition No.3104 of 1980 was allowed by a Single Judge on 19.10.83 and the said judgement was confirmed in the Writ Appeal No.81 of 1984 as per the Judgement of the High Court dated 16.4.1984. On the basis of the Judgement,

..5

T. C. M.

P. J. S.

..5..

the learned counsel for the applicant contended that the present OA is liable to be allowed.

10. The facts in the said Writ Appeal No.81/84 discloses that the said Gopichand was holding the post of "Koy Board and Line Signaman." As could be seen in the present OA, the applicant herein had worked in the army as 'Signal man'. So, the facts of the said writ petition are completely different from the facts of this OA and the judgement of the Hon'ble High Court of AP passed in the said Writ Appeal No.81/84 is not applicable to the facts of this case and the said judgement ^{es} do not advance the case of the applicant. Hence, we see no merits in this OA and this OA is liable to be dismissed and is accordingly dismissed leaving the parties to bear their own costs.

(T.CHANDRASEKHARA REDDY)
Member (Judl.)

Dated:

26/3/1993

Deputy Registrar (J)

mvl

To

1. The Secretary, Min.of Communications, New Delhi-1.
2. The Postmaster General, Visakhapatnam Region, Visakhapatnam.
3. The Superintendent of Post Offices, Vizianagaram Division, Vizianagaram.
4. One copy to Mr.T.Jayant, Advocate, CAT.Hyd.
5. One copy to Mr.N.V.Ramana, Addl.CGSC.CAT.Hyd.
6. One spare copy.

pvm

P5 3/13/93

TYPED BY . (3) COMPARED BY
CHECKED BY APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE CHAIRMAN

AND

THE HON'BLE MR. K. BALASUBRAMANIAN :
MEMBER (ADMN)

AND

THE HON'BLE MR. T. CHANDRASEKHAR
REDDY : MEMBER (JUDL)

DATED: 26 - 3 - 1993

ORDER/JUDGMENT

R.P./ C.P/M.A.No.

in

O.A.No. 338/92

T.A.No. (W.P.No)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions

Dismissed as withdrawn.

Dismissed

Dismissed for default.

Ordered/Rejected. Central Administrative Tribunal

No order as to costs.

DESPATCH

15 APR 1993

HYDERABAD BENCH.

pvm