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THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH : AT HYDERABAD

* * *

O.A.No. 184/93

Date of Decision : 30.11.93

G. Dharma Reddy

.. Applicant.

vs

1. The Chief Administrative Officer,
Heavy Water Project,
(Department of Atomic Energy)
Bombay.
2. The General Manager,
Heavy Water Project,
(GOI, Dept. of Atomic Energy)
Manuguru Post,
Khammam Dist., 507 117.
3. Administrative Officer,
Heavy Water Project,
Manuguru, Khammam Dist.,

.. Respondents.

Counsel for the Applicant

: Mr. ~~G. Srinivas~~ Reddy

Counsel for the Respondents

: Mr. N.V. Ramana
Addl. CGSC

CORAM:

THE HON'BLE SHRI A.B. GORTHI : MEMBER (ADMN.)

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

D.A. No. 184/93

Dt. of Decision : 3-11-93

JUDGEMENT

As per Hon'ble Shri T.Chandrasekhara Reddy, Member(Judl.)

The applicant herein has filed the present OA under the section 19 of the Administrative Tribunals Act for the following reliefs.

i. to fix pay at Rs. 1,250/- + Rs.10/- (PP) P.M.

with effect from 5.7.88, the date of

re-employment in the present organisation,

with all consequential benefits as to

increments, payment of arrears of pay and

to reckon the pay so fixed to count for

all future pensionary benefits and

ii. to count the service rendered by the applicant

in the Indian Air Force with effect from

18.2.1977 to 22.8.1985 for the purpose of

fixation of future pension and other pensionary

and retirement benefits as may be applicable

to Central Civil Services employees.

2. The facts giving raise to this OA in

brief are as follows.

3. The applicant was employed in the Indian

Air Force as Radio Technician (Wireless Operator

Mechanic - II) on 18.2.1977 and was discharged

on medical grounds on 22.8.1985. At the time of discharge the basic pay of the applicant was Rs. 364/- in the scale of pay of Rs. 350-7-420-8-436. In the revised pay scales the parallel scale of the applicant in the said post would be 1300-20-2460-25-1560. At the time of discharge on 22.8.85 the applicant was paid an amount of Rs. 4915/- towards DCRG and Rs. 8,529/- towards invalid gratuity. The applicant was re-employed in Heavy Water Project, Manuguru as Wireless operator on 5.7.1988. The pay of the applicant in the re-employed post as Wireless Operator is fixed provisionally in the scale of pay of Rs. 950-20-1150-EB-25-1500. It is the case of the applicant that the period of service he had put in as Radio Technician in the IAF has got to be counted as per order 4(b) (ii) of the Central Civil Services (fixation of pay of re-employed pensioners) orders, 1986 and hence his pay liable to be fixed at Rs. 1250/- with personnel pay of Rs. 10/- as against 950/- which was given to him at the time of appointment on 5.7.88. The applicant had put in representation to the competent authority to fix his pay at Rs. 1250/- per month + Rs. 10/- (PP) with effect from 5.7.88. The competent authority

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had rejected the representation of the applicant as per letter dated 17.3.92 and had declined to refix the pay of applicant as claimed by him. So the present OA is filed by the applicant for the reliefs as already indicate above.

4. Counter is filed by the respondents opposing this OA. In the counter filed by the respondents it is maintained that the applicant is not entitled for increments for each completed year of service in the Air Force, and that the pay of the applicant has been correctly fixed and hence this OA is liable to be dismissed.

5. We have heard in detail Mr. G.Srinivas Reddy counsel for the applicant and Mr. N.V. Ramana standing counsel for the respondents.

6. It is not in dispute that the applicant herein is an "ex-service ~~men~~" Order 4 of the Central Civil Services (Fixation of pay of re-employed pensioners) orders 1986, deals with fixation of pay of re-employed pensioners. Order 4 a&b (i) read as follows.

"a. Re-employed pensioners shall be allowed to draw pay only in the prescribed scales of

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pay for the posts in which they are re-employed. No protection of the scales of pay of the posts held by them prior to retirement shall be given.

b. i) In all cases where the pension is fully ignored, the initial pay on re-employment shall be fixed at the minimum of the scale of pay of the re-employed post."

7. From the said order it is quite evident that in a case where the pension is fully ignored the initial pay of re-employed should be fixed at the minimum of the scale of pay of the re-employed post. Admittedly in this case the applicant is not a pensioner. So in view of clause (b) (i) of order 4, the applicant is not entitled for fixation of pay, at higher scale in the post in which he is re-employed, even though

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the applicant while working in the Army was in
the parallel revised pay scale of Rs. 1300-20-
1460-25-1560, as the military service of the
applicant cannot be taken into consideration
for fixation of the pay in the reemployed post.

Hence the applicant does not have a right to
set his pay fixed at Rs. 1260/- (1250 + 10).

10. Even though the applicant had prayed
in the OA to count the services rendered by him
in the Indian Air Force with effect from 18.2.77
to 22.8.85 for the purpose of fixation of future
pension and other pensionary and retirement benefits
in the reemployed post the learned counsel for
the applicant did not press the prayer at the time
of hearing of this OA. He put up an argument that
the applicant has got many years of service ahead of
him in the reemployed post and that, the refund of
the amount of Rs. 4915/- which he received towards
DCRG and Rs. 8529/- towards invalid pension at
the time of retirement from military service will
not be beneficial to him.

11. Under Rule 19(1) of CCS (Pension) Rules,
1972 a Government servant who is reemployed in a
civil service or post is required to give an option

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Copy to:-

1. The Chief Administrative Officer, Heavy Water Project, (Department of Atomic Energy), Bombay.
2. The General Manager, Heavy Water Project, (GOI, Dept. of Atomic Energy), Manuguru post, Khammam Dist-117.
3. Administrative Officer, Heavy Water Project, Manuguru, Khammam District.
4. One copy to Sri. G.Srinivas Reddy, advocate, 3-6-288/3, Hyderguda, Hyd.
5. One copy to Sri. N.V.Ramana, Addl. CGSC, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One spare copy.

Rsm/-

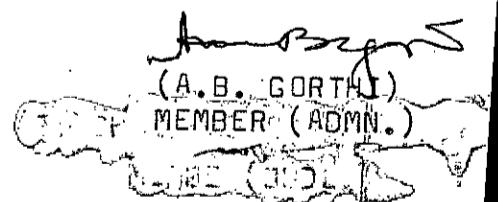
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at the time of his confirmation in the civil post whether he would like to get past military service counted for pension in the civil post or service. But a person who exercises such option and wants to count the military services rendered by him in the civil post, has to return the benefits which he received at the time of discharge from military service. So, the applicant does not appear to be particular about the counting of military service rendered by him in the present civil employment for purpose of pension as he has to return the benefits which he received ~~while was~~ discharged from ~~benefits~~ military service and which the applicant does not want to return as the same is not beneficial to him. Hence on the own showing of the applicant, the applicant is not entitled to the said relief.

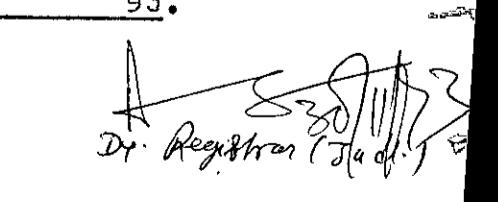
We see no merits in this OA and hence this OA is liable to be dismissed and is accordingly dismissed leaving the parties to bear their own costs.


(T. CHANDRASEKHARA REDDY)
MEMBER (JUDL.)


(A.B. GORTHI)
MEMBER (ADMN.)

Dated : The 31-11-93.

SPR


Dr. Registrar (JUDL)

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COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD

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

AND

THE HON'BLE MR. A. B. GORTHI : MEMBER(A)

AND

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

AND

THE HON'BLE MR. R. RANGARAJAN : MEMBER(A)

Dated: 30/11/1993

ORDER/JUDGMENT:

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

O.A.No.

in
184/93

T.A.No.

(W.P.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Rejected/Ordered.

No order as to costs.

