

(27) (Jy)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : AT HYDERABAD.

* * *

O.A. 264/93

Dt. of Decision : 18.4.1994.

SYED KARIM

.. Applicant.

Vs

1. Chief of the Army Staff,
Army Hqrs. DHQ PO
New Delhi - 110 011.
2. The Director General of Signals
Army HQ, DHQ PO
New Delhi - 110 011.

.. Respondents.

Counsel for the Applicant : Mr. K. Sudhakara Reddy

Counsel for the Respondents : Mr. N.R. Devaraj, Sr. CGSC.

CORAM:

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

(28) (25)

DA.264/93

Judgement

(As per Hon. Mr. A.B. Gorthi, Member (Administration))

Heard Sri K. Sudhakara Reddy, learned counsel for the applicant and Sri N.R. Devaraj, learned counsel for the respondents.

2. The relief claimed by the applicant is for a direction to the respondents to reckon his past military service of 12 years for the purpose of his pension which he earned after having served for 22 years as Civilian Switch Board Operator (CSBO) Grade I.

3. The applicant was initially recruited into Corps of Signals and served till 31-7-1959 when he was discharged from service and was transferred to Reserve Establishment.

during the Chinese Aggression in 1962. He reported for Active Service on 18-12-1962 and was discharged finally on 9-9-1963. These facts are abundantly supported by the Discharge Certificate issued by the competent authority.

4. After his discharge from Military service, the applicant worked as Store Keeper Grade II in the Garrison Engineer, Air Force Academy, Dundigal, for a short while. He was later on employed as Civilian Switch Board Operator in Andhra Sub Area Signal Company on 3-5-1965. Having served with Andhra Sub Area Signal Company for about 22 years he finally retired on 31-8-1987.

5. The respondents in their reply affidavit have not refuted the essential facts averred by the applicant but have stated ^{that} at the time of his reemployment in Andhra Sub Area Signal Company he did not disclose his previous military service.

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6. The respondents further contend that on joining as Civilian Switch Board Operator, the applicant did not make any request or give his option for counting his former military service for the purpose of pension.

7. From the Discharge Certificate it is seen that the ~~initial~~ date of enrollment of the applicant in the Army was 12-6-1948 and that at the time of enrollment he was 20 years old. From this it would be apparent that at the time of his employment in Andhra Sub Area Signal Company, he was more than 35 years old. He should not be employed as Switch Board Operator as a fresh candidate. It would be apparent that his employment in the Andhra Sub Area Signal Company is entirely on account of the fact that he was an Ex-Serviceman. It will be too difficult to accept the respondents contention that at the time of giving him employment in Andhra Sub Area Signal Company, they did not know the status of the applicant.

8. Rule 19 of the CCS(Pension) Rules, 1972 entitles an Ex-Serviceman who is reemployed in civil service/post to claim that his previous military service should be counted as qualifying service. For this purpose he is required to exercise his option in terms of the said rule and also to cease to draw his pension and refund the pension already drawn together with commuted portion of the pension and the amounts of gratuity including service gratuity. The plea of the applicant is that he was not aware of the requirement of exercising such an option; on the other hand he kept on representing to the authorities concerned time and again for counting his former military service for the purpose of his seniority/pension. He had infact filed a writ petition in the High Court of Andhra Pradesh (WP.10720/83) claiming

seniority on the basis of his past military service. The said WP was transferred to the Tribunal (TA.71/87) and it was dismissed.

9. The applicant was discharged from Military service without any pension. On his final discharge from the Reserve list he was given a lumpsum of Rs.750/- as a reservist gratuity in lieu of reservist pension of Rs.10/-p.m. vide PPD No.S/5546/63.

10. In view of what is stated above, the respondents' contention that the applicant did not exercise his option under Rule 19 of the CCS(Pension)Rules, cannot be held against the applicant. It was the responsibility of the respondent organisation to have instructed the applicant suitably and obtained his option, either way, in writing. Moreover, from the various representations made by the applicant over a period of time it would be apparent that he had been asking for taking into account his military service for the purpose of seniority etc. in the grade of Civilian Switch Board Operator.

11. Taking all these circumstances into consideration, I deem it just and proper to dispose of this application with a direction to the respondents to treat the applicant as having opted for the benefit stipulated in Rule 19(i)(b) of the CCS(Pension)Rules. The applicant is given two months time to refund the amount of Rs.750/- which he secured as Reservist Pension. The respondents shall thereafter give him the benefit of counting his former military service as qualifying service for the purpose of calculating his pension on his retirement as Switch Board Operator on 31-8-1987. The pension of the applicant shall be refixed and paid to him together with all consequential benefits.

12. The respondents shall comply with the above direction within a period of six months. No order as to costs.

A. B. Gorthi
(A.B. Gorthi)
Member (Admn.)

Dated : April 18, 1994
Dictated in the Open Court

Arshin Singh
Deputy Registrar (Judl.)

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Copy to:-

1. Chief of the Army Staff, Army Hqrs, DHQ PO, New Delhi-011.
2. The Director General of Signals, Army HQ DHQ PO, New Delhi-011.
3. One copy to Sri. K. Sudhakar Reddy, advocate, CAT, Hyd.
4. One copy to Sri. N.R. Devaraj, Sr. CGSC, CAT, Hyd.
5. One copy to Library, CAT, Hyd.
6. One spare copy.

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O.A. 264

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IN THE CENTRAL ADMINISTRATIVE TRIB
HYDERABAD BENCH AT HYDERABAD

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

AND

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

AND

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

AND

THE HON'BLE MR. K. RANGARAJAN : M (ADMN)

Dated: 18/4/-1994

ORDER/JUDGMENT

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

in

O.A.No.

264/93

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.

Central Administrative Tribunal

DESPATCH

20 MAY 1994

HYDERABAD BENCH