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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. 927/94.

Dt. of Decision : 26.12.94.

C. Sharat Chandran Pillai

.. Applicant.

Vs

1. The Chief Controller of Accounts
(Factories)
Ministry of Defence, 10-A,
Auckland Road,
Calcutta-700 001.

2. The Secretary,
Calcutta.

3. The General Manager,
Ordinance Factory,
Eddu Mailaram,
Medak District, A.P.

.. Respondents.

Counsel for the Applicant : Mr. S.Lakshma Reddy

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

CORAM:

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

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OA 927/94.

JUDGMENT

Dt:26.12.94

(AS PER HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.))

Heard Shri S.Lakshma Reddy, learned counsel for the applicant and Shri N.R.Devaraj, learned standing counsel for the respondents.

2. The applicant ~~was~~ had 16 years and 8 months of service ~~xxxxxxxx~~ as Group 'B' Vehicle Mechanic (Armed Fighting Vehicle) Class-I at the time of his discharge from the Army. At the time of his discharge, he was drawing the pay of Rs.305/- in the pay scale of Rs.210-290. On his re-employment under R-3 ~~he~~ with effect from 24.3.1986, his pay was fixed at Rs.980/- per month in the pay scale of Rs.800-1150 by adding 16 years of service increments in the Army and also ignoring the basic pension. In December, 1988, he was promoted to the Skilled Grade in the pay scale of Rs.950-1500 and in 1992, he was further promoted as Highly Skilled Grade-II Fitter in the pay scale of Rs.1200-1800. He was drawing ~~payxxxxxxxxxxxxxxxx~~ pay of Rs.1230/- per month in the Highly Skilled Grade-II Fitter category.

3. While so, the applicant was informed through the proceedings dated 30.4.1994 (Page-3 of the material papers) stating that the applicant's pay is refixed at in the grade of Rs.800-1150 Rs.800/- per month/instead of Rs.980/- per month with

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effect from 24.3.1986, the date on which he was re-employed under R-3. The above said letter was in pursuance of the proceedings of R-1 dated 14/17.1.1994 (Page-4 of the material papers). It is stated by the applicant that his pay was ordered to be refixed at the minimum of the pay of the military pensioners re-employed after 25.1.1983 where his full pension is ignored. It is also stated by the applicant that earlier, the re-employed military pensioners' pay was fixed on the basis of the Government of India instructions issued in O.M. dated 15.7.1960 read with the O.M. dated 8.2.1983. As per the above said O.M, the ex-serviceman who is re-employed and where the minimum pay in which the ex-serviceman is re-employed is more than the last pay drawn on re-employment, the official concerned was allowed to draw the minimum pay in the prescribed scale of post less pension and pension equivalent or other retirement benefits. However, by the OM.. dated 8.2.1983, the said restrictions were modified to the following effect:-

"Ex-servicemen retiring before attaining the age of 55 years and below the Command Officers Rank, the entire pension will have to be ignored in fixing the pay of re-employed pensioners on or after 25.1.1983."

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4. Following the above said instruction, the applicant was ^{also given} the benefit of fixation at Rs.980/- in the pay scale of Rs.800-1150 by giving one increment on each completed year of service in the Military starting from the minimum of the pay scale as the applicant was drawing a higher pay at the time of his retirement in the Military. The above instructions were also followed in the case of other re-employed ex-servicemen under R-3.

5. Aggrieved by the impugned order dated 30.4.1994 of R-3, he submitted a representation dated 16.5.1994 (Page-1 of the material papers) to R-3. But this representation has not been replied so far.

6. As R-3 is proposed to initiate recovery proceedings, the applicant has filed this application for a declaration that the impugned proceedings dated 14/17.1.1994 of R-I and the consequential proceedings dated 30.4.1994 issued by R-3 in refixing the pay of the applicant at Rs.800/- per month instead of Rs.980/- per month with effect from 24.3.1986 and ordering x recovery of arrears of over-payment calculated on the said refixation as totally arbitrary, illegal, without jurisdiction and violative of Articles 14, ~~and~~ 16 and 300-A of the Constitution of India and for further direction to set-aside the same and to continue the pay of the applicant as per the fixation given at the time of his re-employment.

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7. The learned counsel for the applicant brought to my notice the judgment of this Tribunal dated 23.9.1994 in OA 279/94 also where a direction was given to re-fix the pay of the applicant therein who was released from Indian Air Force, granting him advance increment for the service he had rendered in the Indian Air Force ignoring the entire military pension.

8. The learned counsel for the respondents graciously accepted that R-3 will consider the representation dated 16.5.1994 of the applicant and decide this issue further in the light of the various instructions issued from time to time and also in the light of the decision given in the judgment quoted above. The learned counsel for the applicant also agreed to the above course of action.

9. In view of the above submission of the learned Standing Counsel for the respondents, the following direction is given:-

R-3 should dispose of the representation of the applicant dated 16.5.1994 as expeditiously as possible, preferably within a period of four months from the date of receipt of this order taking due note of the judgment of this Tribunal dated 23.9.1994 in OA 279/94 in fixation of pay of the applicant. Till such time the representation is disposed off, R-3 is restrained from re-fixing his pay and recovering the



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arrears as ordered in his letter dated 30.4.1994 (Page-3 of the material papers). If the applicant is aggrieved by the out come of the reply to be given by R-3, he is free to move this Tribunal under Section 19 of the Administrative Tribunals Act, 1985.

10. The OA is ordered accordingly. No costs.



(R. RANGARAJAN)
MEMBER (ADMN.)

DATED: 26th December, 1994.
Open court dictation.


6-11-94

Deputy Registrar(J)CC

vsn

To

1. The Chief Controller of Accounts (Factories)
Ministry of Defence, 10-A, Auckland Road,
2. The Secretary, Ordnance Factory Board, Calcutta.
3. The General Manager, Ordnance Factory,
Edumailaram, Medak Dist. A.P.
4. One copy to Mr. S. Lakshma Reddy, Advocate, CAT. Hyd.
5. One copy to Mr. N. R. Devraj, Sr. CGSC. CAT. Hyd.
6. One copy to Library, CAT. Hyd.
7. One spare copy.

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TYPED BY

CHECKED BY

COMPARED BY

APPROVED BY

(7)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

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

AND

THE HON'BLE MR. R. RANGARAJAN : M(A.T.)

DATED: 26-12-1994

ORDER/JUDGMENT:

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

in

O.A.No.

927/94

T.A.No.

(w.p.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn

Dismissed for default..

Ordered/Rejected

No order as to costs.

Dvm

NO SPARE COPY

Central Administrative Tribunal
DESPATCH
12 JAN 1995
HYDERABAD BENCH