

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:  
AT HYDERABAD

ORIGINAL APPLICATION NO. 761 of 1995

DATE OF JUDGMENT: 15.7.96

BETWEEN:

K.GURUCHARANAM .. Applicant

and

1. The Telecom District Manager,  
Warangal,
2. The Chief General Manager,  
Telecommunications,  
Doorsanchar Bhavan, Nampally Station Road,  
Hyderabad,
3. The Director General,  
Telecom, New Delhi,
4. Union of India, represented by  
the Secretary to the Department of  
Telecommunications,  
New Delhi. .. Respondents

COUNSEL FOR THE APPLICANT: Shri K.VENKATESWARA RAO

COUNSEL FOR THE RESPONDENT: SHRI N.V.RAGHAVAREDDY, Addl.CGSC

CORAM:

HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMINISTRATIVE)

JUDGEMENT

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

Heard Shri K.Venkateswara Rao, learned counsel for the applicant and Shri N.V.Raghava Reddy, learned standing counsel for the respondents.

2. The applicant in this OA while working as Surgeon A.F.Fitter in the Indian Air Force took voluntary



(31)

retirement after serving 20 years, with effect from 1.6.1981. At the time of his voluntary retirement, he was drawing the pay of Rs.445/-. He was granted military pension of Rs.290/- and his pension equivalent to gratuity was Rs.34=18 Ps. He was reappointed in the Civilian service as Telecom Office Assistant with effect from 5.10.1981. While fixing his pay as Telecom Office Assistant in the scale of pay of Rs.260-480, his pay was fixed in the grade of Rs.260-480 at the stage of Rs.260/-. The applicant exercised his option for refixation of pay by protecting his last pay drawn on the date of his retirement. However, that was rejected on the ground that the pay plus pensionary benefits should not exceed pre-retirement pay of Rs.445/- vide letter No.45-220/84-PAT dated 3.10.85. But his refixation as requested above was also negatived by R-2 for refixing his pay on the basis of the O.M.No.2(1)/83/D(CIV.I) dated 8.2.83. Aggrieved by the above, he has filed this OA praying for declaration that he is entitled to have his pay refixed in the then scale of pay of Rs.260-480 ignoring the entire pension including the pension equivalent of gratuity and other forms of retirements in terms of Ministry of Defence O.M.No.2(1)83/D(CIV-I) dated 8.2.83 (Annexure A-VI at page 14) read with O.M.No.3/1/84-Estt.(pII) dated 4.4.86 and also in terms of the judgement in O.A.No.1447/93 dated 6.12.94 with all consequential benefits.

3. The first contention of the learned standing counsel for the respondents is that while refixing the pay

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of the applicant in accordance with the Ministry of Defence OM dated 8.2.83 cited supra, no hardship is being observed as no advance increments are to be granted. It is further contended that the hardship is seen from the point whether the minimum of reemployed post plus full pension plus PEG is less than the last pay drawn at the time of retirement.

4. It is not clear from the above contention whether the respondents want to fix his pay in the reemployed post taking into account the pension and pensionary benefits ~~and~~ received by him since ~~even after~~ taking account the pension and pensionary benefits, his pay will be lowered. But this contention does not appear to be in order in view of the Ministry of Defence OM dated 8.2.83. A perusal of the OM dated 8.2.83 clearly shows that the pension and pension equivalent of gratuity should be ignored while fixing the pay when reemployed in a civilian post for non-commissioned officers. As it is admitted that the applicant was a non-commissioned officer and he fulfills all the conditions as laid down in the OM dated 8.2.83, his pay has to be fixed in the civilian post ignoring the pension and pension equivalent of gratuity which he drew from the military from 25.8.83. Hence his pay in the grade of Rs.260-480 as Telecom Office Assistant has to be fixed in accordance with the OM dated 8.2.83. This OM does not talk about any hardship that will be encountered as indicated in the reply. Hence this contention fails.

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5. The learned standing counsel for the respondents relies on the G.I., M.F., O.M.No.F.5(14) E.III(B)/77 dated 19.7.78 to substantiate his case. But this OM of 19.7.78 has no relevance as this has been superseded by the later OM dated 8.2.83.

6. No other contention has been raised by the respondents.

7. In O.A.No.1447/93, the applicant in that OA was also similarly placed. The applicant therein also prayed for fixation of his pay in the pay scale of Rs.260-480 taking into account his length of service in the Army without making any deduction of his pension and pension equivalent of gratuity while employed as civilian servant. That OA was allowed directing the respondents therein to fix the pay of the applicant therein taking into account the number of completed years of service rendered by him as Combatant Clerk in Indian Air Force ignoring his entire pension and pension equivalent of gratuity and other forms of retirement while fixing his pay in the civilian post. A similar direction is to be given in this case also in view of the similarity in both the cases.

7. The applicant filed this OA on 12.6.95 whereas he prays for fixing his pay in accordance with the OM dated 8.2.83 with effect from that date. Hence the OA is to be treated as a belated one and hence he is entitled for arrears only from one year prior to filing of this OA as



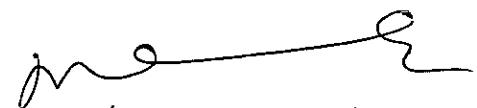
notional fixation of pay and drawing notional increments thereon is of continuity cause.

8. In the result, the following direction is given:-

The applicant is entitled for fixation of pay

from 8.2.83 in accordance with the Ministry of Defence O.M.No.2(1)83/D(CIV-I) dated 8.2.83 on the basis of his last pay drawn in the Army and he will be entitled for Grant of notional increments as per the scale of pay thereafter. While fixing his pay in the civilian post equivalent to the last pay drawn in the Army in the scale of pay of Rs.260-480, the entire pension including the pension equivalent of gratuity and other forms of retiral benefits received by him from military shall be ignored. Final benefits shall be calculated and adjusted accordingly but the applicant shall be entitled to the actual resultant financial benefits with effect from 12.6.94 i.e, one year prior to the date of filing of this OA (this OA was filed on 12.6.95).

9. The OA is ordered accordingly. No costs.

  
(R.RANGARAJAN)  
MEMBER (ADMN.)

DATED: 15th July, 1996  
Open court dictation.

vsn

  
Dy. Registrar(J)

..6..

C.A. NO. 761/95

## Copy to:

1. The Telecom District Manager,  
Warangal.
2. The Chief General Manager,  
Telecommunications,  
Boorsanchar Bhavan,  
Nampally Station Road,  
Hyderabad.
3. The Director General,  
Telecom, New Delhi.
4. The Secretary to ~~the~~ the Dept. of  
Telecommunications,  
New Delhi.
5. One copy to Mr.K.Venkateswar Rao, Advocate, CAT, Hyderabad.
6. One copy to Mr.N.V.Raghava Reddy, Addl.CGSC, CAT, Hyderabad.
7. One copy to Library, cAT, Hyderabad.
8. One duplicate copy.

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APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R.RANGARAJAN: M(A)

DATED: 15/7/96

ORDER/JUDGEMENT

D.A. NO. / R.A. / C.P. No.

in:

D.A. NO. 761/95

ADMITTED AND INTERIM DIRECTIONS ISSUED

~~ALLOWED~~

DISPOSED OF WITH DIRECTIONS

~~DISMISSED~~

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS.

YLR

II COURT

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