

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: AT
HYDERABAD.

C.A.NO. 790/95.

DATE OF JUDGMENT: 20-07-95.

BETWEEN:

D. Ramanadham

.. Applicant.

AND

1. The Telecom District Manager,
Warangal.
2. The Chief General Manager,
Telecom Nampally Station, Road,
Hyderabad.
3. The Director General, Telecom,
Sanchar Bhawan, New Delhi.
4. Union of India rep. by the
Secretary to the Ministry of
Telecommunication, New Delhi.

.. Respondents.

COUNSEL FOR THE APPLICANT: SHRI K. Venkateswara Rao

COUNSEL FOR THE RESPONDENTS: SHRI N.R. Devaraj,
Sr/Adv. CGSC.

CORAM:

HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN
HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.)

..2

O.A.No.790/95.

Date: 20 -7-1995.

JUDGMENT

[as per Hon'ble Sri R.Rangarajan, Member(Administrative)]

Heard Sri K.Venkateswara Rao, learned counsel for the applicant and Sri N.R.Devaraj, learned Standing Counsel for the respondents.

2. The applicant herein is a released defence person. He was originally appointed as Havaldar/Clerk GD in Defence on 31.10.1963 and he had worked as such till 31.10.1981 when he was discharged from service. The applicant was later re-employed as Telephone Operator with effect from 1.2.1982 in the ~~department of Telecom~~ under the control of R&I, and his pay was fixed at the ~~minimum in that scale~~ though he was drawing a pay of Rs.372-50 ps. while he was discharged from defence. He was also granted military pension of Rs.192/- with effect from 1.11.1981.

3. It is submitted that number of Memoranda were issued from time to time giving a gradual progressive change to the re-employed military pensioners. In terms of Order 16 of Fixation of Pay of re-employed pensioners orders, Combatant Clerks are given the additional advantage of claiming initial pay fixation in the time scale of the re-employed post at a stage equivalent to the stage that would have been reached by putting in the civil post the number of completed years of service rendered in the post in the Armed Forces. This benefit which was initially restricted to Combatant Clerks re-employed in the civil posts of Lower Division Clerks, Junior Clerks or Storemen,

was later extended to Combatant Clerks re-employed as Telegraphists/Telephone Operators vide Government of India, Ministry of Personnel, O.M.No.16/3/85-Est(pay-I) dt. 22.1.1987. In terms of Articles 521 and 526 of Civil Service Regulations, Civil and Military pensioners retiring before attaining the age of 55 years would be entitled to have Rs.15/- of the pension ignored for fixing their pay on re-employment. This limit of Rs.15/- was raised to Rs.50/- in 1964 and Rs.125/- in 1978. Subsequently vide Ministry of Defence O.M.No.2(1)83/D(Civ.I) dt. 8.2.1983, the entire pension, on re-employment of those pensioners below Commissioned Ranks, has to be ignored in fixing their pay on re-employment. Bangalore Bench of this Tribunal held in O.A. filed by Sri E.N. Maisale that Telephone operators employed even prior to 1.1.1987 would also be entitled for the benefit of O.M. dt. 22.1.1987, but the financial benefits of re-fixation for one year prior to the date of filing of the said O.A.

4. Relying on the above Circular and the Judgment of the Bangalore Bench of this Tribunal one Sri P.Sanker Reddy who was re-employed as a Telephone Operator in the Department of Telecommunications after he retired from I.A.F., filed O.A.No.1447/93 claiming that he is entitled to the benefit of annual increments for 14 years of service rendered by him in I.A.F. Though the respondents therein refuted the claim of the applicant therein by stating that he is not entitled to higher pay fixation as the minimum pay of his present post-plus-non-ignorable part of pension would be more than his pre-retirement pay of Rs.339/-, this Tribunal had held that the pay of

23

the applicant therein shall be fixed at a stage equivalent to the stage that would have been reached by putting in the post of Telephone Operators, the number of completed years of service rendered in the post of Combatant Clerk (excluding his period of basic training) in the I.A.F. after examining the various instructions quoted above and following the law laid down by the Bangalore Bench of this Tribunal.

5. The applicant herein submits that his case is squarely covered by the aforesaid decision of this Tribunal in OA 1447/93 and accordingly he is entitled to have his pay fixed as Telephone Operator by taking into consideration the annual increments drawn by him while in defence service. He made representations for fixation of pay as above vide representations dt. 15.1.1994 and 28.12.1994 enclosing a copy of the judgment in OA 1447/93 dt. 6.12.1994. It is alleged that there is no response for those representations. Hence, he has filed this OA for a declaration that he is entitled for fixation of his pay in the then scale of Telephone Operator of Rs.260-480 revised to Rs.975-1660 from 1-1-1986 in accordance with Ministry of Personnel O.M.No.3/I/85/Estt(P.II) dt. 4.4.1986 read with DOP&T O.M.No.16-3/85-Estt.(Pay-I) dt. 22.1.1987 and DOT No.45-65/88-PAT dt. 4.9.1989 and also in terms of judgment in O.A.No.1447/93 dt. 6.12.1994 with all consequential benefits from the date of his appointment from 1.2.1982 as Telephone Operator by holding that the action of the respondents in not fixing his pay as aforesaid is illegal, arbitrary, discriminatory and violative of Articles 14 & 16 of the Constitution.

10

1. The Telecom District Manager, Warangal.
2. The Chief General Manager, Telecom Nampally Station Road, Hyderabad.
3. The Director General, Telecom, Sanchar Bhawan, New Delhi.
4. The Secretary to the Ministry of Telecommunication, Union of India, New Delhi.
5. One copy to Mr.K.Venkateswar Rao, Advocate, CAT.Hyd.
6. One copy to Mr.N.R.Devraj, Sr.CGSC.CAT.Hyd.
7. One copy to Library, CAT.Hyd.
8. One spare copy.

the pvm's will be the only ones to have the
true and natural balance of the
two forces against the other two to which
they are subject (the pvm's will be
the only ones to have the true and natural
balance of the two forces against the other
two to which they are subject).

1. *Surat* (Continued) 2. *Letter* (Continued) 3. *Letter* (Continued) 4. *Letter* (Continued)

1996-01-01 00:00:00 1996-01-01 00:00:00

1. $\{a_1, a_2, \dots, a_n\}$ \rightarrow $\{a_1, a_2, \dots, a_n\}$
2. $\{a_1, a_2, \dots, a_n\}$ \rightarrow $\{a_1, a_2, \dots, a_n\}$

1870-1871

6. The learned Standing Counsel had fairly submitted that this case is covered by the Judgment in O.A.No.1447/93.

7. In view of the above, we see no reason to differ from the judgment of this Tribunal in the above said O.A. and following the said judgment, the following directions are given:-

(a) The initial pay of the applicant shall be fixed at the stage equivalent to the stage that would have been reached by putting in the post of Telephone Operator the number of completed years of service rendered in the post of Havaldar/Clerk GD (excluding the period of training in defence service).

(b) For the above purposes, the applicant's entire pension (including the pension equivalent of gratuity and other forms of retirement benefits) shall be ignored.

(c) Financial benefits shall be calculated and adjusted accordingly. But the applicant will be entitled to the actual arrears of pay benefits with effect from 3.7.1994, that is one year prior to the date of filing of this OA (this OA was filed on 3.7.1995).

8. The OA is ordered accordingly at the admission stage. No costs.

one
(R.Rangarajan)
Member(Admn.)

V.Neeladri Rao
Vice-Chairman

Dated 26th July, 1995.

Grh.

Amulya
Deputy Registrar (OCC)

THPED BY

CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.

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

A N D

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

DATED 20/7 1995.

ORDER/JUDGMENT:

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

in
OA. No. 790/95

TA. No. (W.P.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions.

Dismissed. at the admission stage.

Dismissed as withdrawn

Dismissed for default

Ordered/Rejected.

No order as to costs.

Spoke (CPY)
N

