

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.1098/96

DATE OF ORDER : 01-08-1997.

Between :-

S. J. Sahib

... Applicant

And

1. Controller,
Controllerate of Quality Assurance
Systems, M/o Defence, Trimulgherry,
Secunderabad.
2. Director General of Quality Assurance,
Department of Defence Production,
DHQ, New Delhi.

... Respondents

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Counsel for the Applicant : Shri S.Ramakrishna Rao

Counsel for the Respondents : Shri K.Ramulu, Addl.CCSC

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CORAM:

THE HON'BLE SHRI H.RAJENDRA PRASAD : MEMBER (A)

(Order per Hon'ble Shri H.Rajendra Prasad, Member (A)).

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... 2.

(Order per Hon'ble Shri H.Rajendra Prasad, Member (A)).

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Heard Ms.Shama for Shri K.Ramulu on behalf of the Respondents. The applicant retired from the corps of Electrical & Mechanical Engineers (EME for short) in the capacity of Vehicle Mechanic in the rank of Havaldar on 25-1-85, and was re-employed as Vehicle Mechanic on 1-3-85. The grievance of the applicant in this case is that his claim for fixation of initial pay at Rs.342/- consequent on re-employment under Respondent No.2, by giving him the benefit of weightage of his past service, envisaged under Rule-16 of CCS (Fixation of Pay of Re-employed Pensioners Orders, 1986). ^{however} The respondents point out that Rule-16 of the said Rules is not applicable to the applicant. The said rule reads as under :-

"16.Fixation of pay of Ex-Combatant Clerks/ on their re-employment as Lower Division Clerks or Junior Clerks in the Civil posts and Ex-Storemen in the Armed Forces on their re-employment as Storemen in Civil Posts shall have the option to get their pay fixed under Orders 4 and 5 above or in accordance with the procedure indicated in sub-para (2) below.

Explanation:

(i).....

(ii).....

(2) Service rendered as Combatant Clerks and Storemen in Armed Forces shall be treated as equivalent to service as Lower Division Clerks/ Junior Clerks and Storemen respectively in Civil posts, irrespective of the pay in such cases shall be fixed in the timescale of the re-employed posts at a stage equivalent to the stage that would have been reached by putting in the civil posts, the number of completed years of service rendered in the posts in the Armed Forces. The pay so fixed will not be restricted to the 'pre-retirement pay'. The fixation of pay in these cases shall be done by invoking the provisions of Fundamental Rule 27."

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2. The ~~claim of~~ the applicant is based on the notion *at the time of his discharge,* that the rank of Havaladar, which post he ~~was~~ holding is equivalent to the Clerk in Civil ~~employ~~. It is pointed out by the respondents that the rule *supra* is not applicable in this case because it ~~deals~~ deals exclusively with Ex-Combatant Clerks and Ex-Storemen in the Armed Forces. The applicant was neither a ~~Combatant Clerk~~ nor a ~~Storeman~~. It is further pointed out by the respondents that what is applicable to the applicant in the present case is Rule-4 of the same rules. Rule-4(d) reads as under :-

"4.(d) In case of persons retiring before attaining the age of 55 years and who are re-employed, pension (including pension equivalent of gratuity and other forms of retirement benefits) shall be ignored for initial pay fixation to the following extent:-

(i) in the case of ex-servicemen who held posts below commissioned officer rank in the Defence Forces and in the case of civilians who held posts below Group-'A' posts at the time of their retirement, the entire pension and pension equivalent of retirement benefits shall be ignored."

3. It is further clarified by the respondents that in fixing his initial pay his pension as well as P.E.G. had in any case been ignored in the first instance *itself*. Therefore, the plea of the applicant that P.E.G. should also be ignored for fixation of initial ~~pay~~ is not valid or relevant any more. In view of the rule position, the claim of the applicant is not admissible. It is held that the fixation of pay of the applicant on his re-employment as Vehicle Mechanic under the Respondents has been

O.A.1098/96

To

1. The Controller,
Controllerate of Quality Assurance Systems,
Ministry of Defence, Trimulgherry,
Secunderabad.
2. The Director General of Quality Assurance,
Dept.of Defence Production, DGQ, New Delhi.
3. One copy to Mr.S.Ramakrishna Rao, Advocate, CAT.Hyd.
4. One copy to Mr.K.Ramulu, Addl.CGSC.CAT.Hyd.
5. One copy to HHRP.M(A) CAT.Hyd.
6. One copy to D.R.(A) CAT.Hyd.
7. One spare copy.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE
VICE-CHAIRMAN
and

THE HON'BLE MR. H. RAJENDRA PRASAD: M(A)

Dated: 1 - 8 - 1997

ORDER/JUDGMENT

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

in

O.A.No. 1098/96

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.

pvm

