

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No. 1106/96

Date of Order : 4.2.99

BETWEEN :

Kolli Sambhi Reddy

.. Applicant.

AND

- 1. The Sr. Post Master (Gazetted),
Head Post Office, Vijayawada.
- 2. The Sr. Superintendent of Post
Offices, Vijayawada Division,
Vijayawada.
- 3. The Post Master General,
Vijayawada Region, Vijayawada.
- 4. The Director General of Posts,
Dak Bhavan, New Delhi.

.. Respondents.

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Counsel for the APPLICANTS

.. Mr. Krishna Devan

Counsel for the Respondents

.. Mr. V. Vinod Kumar

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CORAM :

HON'BLE SHRI R. RANGARAJAN ; MEMBER (ADMN.)

HON'BLE SHRI B.S. JAI PARAMESHWAR ; MEMBER (JUDL.)

- - -

ORDER

X As per Hon'ble Shri R. Rangarajan, Member (Admn.) X

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Mr. Krishna Devan, learned counsel for the applicant
and Mr. V. Vinod Kumar, learned standing counsel for the
respondents.

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2. The applicant was appointed as a Combatant Clerk in the corps of E.M.E. on 12.3.63 and continued in that post till 17.1.80. He worked for over 16 years and he retired from the service as Havaldar Clerk holding substantive lien in the cadre for a period of more than 3 years continuously. The last pay drawn by the applicant was Rs.388-50 as stated in para 6.(a) of the affidavit. It is stated that the pension of the applicant is fixed at Rs.179/- per month along with additional D.A. on retirement of military service.

3. The applicant was appointed as Postal Assistant on 12.5.81 in Vijayawada Postal Region and had completed more than 16 years of service in the Civil Service and due for retirement on 31.7.97. The applicant submits that he stopped drawing Dearness Relief on pension w.e.f. 12.5.81 when he was appointed as a Postal Assistant. He submitted a representation dated 22.2.82 seeking for refixation of pay granting increments in the Postal Assistant cadre in the number of years rendered in the Army for over 16 years. The S.P.O. Vijayawada advised the applicant by letter dated 31.3.83 to approach the Ministry concerned. Hence he submitted an application through proper channel claiming refixation of his pay to the Ministry concerned on 28.1.85. As there was no response he sent reminders subsequently also. He was replied by the Sr. PostMaster by his letter dated 22.4.94 on the basis of the communication

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received in letter No.AC-I/31-16/VZA, dated 14.4.94 (A-11) issued by P.M.G., Vijayawada rejecting his request for refixation of pay in Civil post counting his military service on the ground that the official discharged from Military service on his own request. As the applicant was not satisfied ^{with} that reply he once again approached the P.M.G., Vijayawada by his representation in September 1994 which was also rejected by letter No.B1/PF/KSR/95-96, dated 12.7.95 (A-16). The applicant further approached the P.M.G., Vijayawada by his letter dated 19.7.95 to grant him relief as similar relief was granted in respect of Sri C.Adinarayana, SBCO, Vijayawada Headquarters. But no reply was given and his case also ^{was} not compared with that of Sri C.Adinarayana as requested by him.

4. This OA is filed praying for a direction to the respondents to fix his pay at higher stage above the minimum of the scale of pay applicable to the Postal Assistant by granting number of increments equal to the number of completed years of service in the Armed Force and for a consequential direction to pay arrears consequent to such refixation within 3 months from the date of judgement.

5. A reply has been filed in this OA. The main contention of the respondents is that the benefits in accordance with the provisions of the Rule 19(1) of ^{the} CCS (Pen) Rules 1972 along with 6% simple interest for counting military service as qualifying service. But the applicant has exercised option on 13.1.95 i.e. after 6 months of such options were asked for. Hence the

It is available only if the applicant fulfills the conditions

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~~same~~ was not considered. The second contention of the respondents is that he discharged from Army on 18.1.80 on compassionate grounds at his own request before fulfilling the conditions of his enrolment. Later he was appointed as Postal Assistant under Ex-servicemen quota on 12.5.81. In view of that his request for fixation of pay cannot be agreed to.

6. A rejoinder has been filed in this OA. In the rejoinder the applicant has produced the order for fixation of pay of Sri C. Adinarayana, ^{Rev} following the O.M. of Ministry of Finance No. 8 (34) F. III/57, dated 25.11.58 (A-25 to the OA) and also O.A. No. 5 (14) E III/ (B)/77, dated 19.7.78 (A-26 to the OA). The applicant submits that Sri C. Adinarayana, ^{Rev.} was similarly placed and similar request by him was accepted.

7. We have considered the view point expressed by both sides. The contention that he had not submitted his option within the stipulated period cannot ~~be~~ stand in the way of the applicant. The pay fixation of the applicant has to be done in accordance with the rule. There is no letter produced before us to show such fixation cannot be given if the option is ^{not} exercised in time. Hence this contention is rejected.

8. The second contention for not granting the relief is that the applicant was discharged from Army on compassionate grounds ~~in~~ his own request before fulfilling the conditions before enrolment. But there is a letter produced by the

applicant dated 2.3.74 (A-3) which states that the benefit envisaged in the letter of 11.4.63 (enclosed as A-1 to the OA) may be granted to the Ex-Combatant Clerks released from Armed Forces on their own request or on compassionate or medical grounds. The letter dated 11.4.63 states that the Ex-Servicemen released/retired from Armed Forces, their initial pay in the posts of IDCs/Junior Clerks may be fixed in the higher scale above the minimum equal to the completed years of service as Combatant Clerks. Hence in terms of the letter of the OM. dated 11.4.63 read with O.M. dated 2.3.74 the applicant is entitled for the relief as prayed for in this OA. The respondents have not made any submission in regard to these points raised by the applicant. In view of that it has to be held that the applicant is released in accordance with the rules of Government of India. Hence the second contention that his pay fixation ^{on his request} cannot be given on account of his release on compassionate grounds has to be rejected.

9: The applicant has compared his case with that of one Sri C. Adinarayana ^{Res.}. He has also enclosed the pay fixation of Sri C. Adinarayana and the application of Sri C. Adinarayana ^{Res.} dated 11.8.81 as A-22 and A-23 to the rejoinder. The learned counsel for the respondents submit that the respondents have not given any ^{and} details in regard to the fixation of pay of Sri Adinarayana eventhough he ^{had} asked ~~for~~ them to furnish the details. In view of the non-reply ^{by} of the counsel ^{by} for the respondents ~~letter~~ it has to be stated that the respondents have no objection if the

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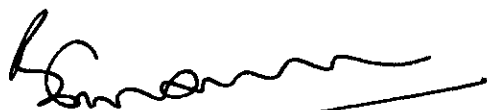
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applicant's pay is fixed in accordance with the pay fixation of Sri C. Adinarayana^{Row-}. It is further stated that the respondents requests time. This OA was filed on 6.9.96, more than 2½ years are over in this connection. Hence it is not advisable to grant any further time.

10. In view of the above the following direction is given:

The pay of the applicant should be fixed w.e.f. 12.5.81 if otherwise admissible on re-employment as IDC in terms of Ministry of Finance dated 25.11.58 and read with O.M. dated 19.7.78. The applicant should be informed of the result of the pay fixation within a period of 2 months from the date of receipt of a copy of this order. Arrears if any arising out of the fixation should be paid to him within 3 months thereafter.

11. The OA is ordered accordingly. No costs.


(B.S. JAI PARAMESHWAR)
Member (Judl.)


(R. RANGARAJAN)
Member (Adm.)

412-23
Dated : 4th February, 1999

(Dictated in Open Court)

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Copy to:

1. HDHND
2. HHRP M(A)
3. HSSJP M(J)
- ✓ 4. D.R. (A)
- ✓ 5. SPARE

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Ist and IInd Court.

Typed By
Compared by

Checked by
Approved by

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD.

THE HON'BLE MR. JUSTICE D.H. NASIR:
VICE - CHAIRMAN

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

THE HON'BLE R. RANGARAJAN
MEMBER (A)

THE HON'BLE MR. S.S. JAI PARAMESHWAR:
MEMBER (J)

DATED: 4-2-99

ORDER/JUDGMENT

M.A./R.A/C.P.NO.

IN

O.A.NO : 1106/96.

ADMITTED AND INTERIM DIRECTIONS
ISSUED.

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

of. (Goverment)

केन्द्रीय प्रशासनिक अधिकरण Central Administrative Tribunal श्रेण / DESPATCH
11 FEB 1999
हैदराबाद न्यायपीठ HYDERABAD BENCH