

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH

AT HYDERABAD

ORIGINAL APPLICATION No.652/99

DATE OF ORDER : 10-3-2000

Between:-

1. M.G.Sandhani Baig

2. D.Rama Raju

3. Hari Prasad

4. A.Radha Krishna Murthy

...Applicants

And

1. The Post Master General, Visakhapatnam Region,
Visakhapatnam-530 001, Visakhapatnam District.

2. Superintendent of Post Offices, Anakapalli Division, Anakapalli-531 001,
Visakhapatnam District.

...Respondents

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COUNSEL FOR THE APPLICANTS : Shri M.Prasad Rao

COUNSEL FOR THE RESPONDENTS: Shri J.R.Gopal Rao, Addl.CGSC.

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CORAM:

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

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

(Order per Hon'ble Shri B.S.Jai Parameswar, Member(J))



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None for the applicant. Mr.J.R.Gopala Rao, learned standing counsel for the respondents.

2. There are four applicants in this OA. They are all Ex-servicemen having rendered their service in Military they were re-employed in the Postal Department as Postal Assistants. The respondents fixed their pay at Rs.975/- at the minimum in the scale of Rs.975-1660 of pay applicable for the post.

3. The applicants submit that fixation of their pay in the respondent department at the minimum of the scale of pay is not correct. They appears to have submit^{ted} in the representations. However Annexures-1 to 4 are the replies issued by the department. The respondent authorities disposed of the representations and informed the applicants that their fixation of pay at the minimum of the scale at Rs.97⁵0/- is in order under Rule 4 of ^{the} CCS (Fixation of pay of re-employed petitioners) Orders, 1986.

4. Hence they have filed this OA challenging the impugned order No./2/98.99, dated 27.10.98 praying to set aside the same and hold that the action of the respondents is arbitrary, illegal, contrary to law and also violative of Articles 14, 16, 19(1)(g) of the Constitution of India and for a consequential direction to the respondents to re-fix the pay of the applicants basing on the last pay drawn by them in the military service.

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5. The applicants in page-2 of the application have furnished the particulars of the services rendered in the military, the last pay draw by them in the military service and the pay fixation by the respondents on their re-employment. They submit that the respondent authorities failed to take ~~into ref~~ ^{to} into consideration the Proviso 4(b)(ii) of the Order, 1986 and also the C&AG No.573/Audit/1/63-89, dated 19.7.89 and the memo of the Ministry of Finance dated 29.11.88. They submit that on account of the re-employment in the department ^{they are not getting the D.R. on} the pension ~~is~~ drawn by them in the military service.

6. The respondents have filed their counter justifying the fixation of the pay at the minimum of Rs.975/- in the scale of pay of the post in accordance with Rule 4 of the Order 1986. It is their main contention that while fixing the pay of the applicants the pension drawn by them have been ignored and therefore as per Rule 4(b) of ^{the} Rules 1986 when once the pension drawn by a re-employed person is ignored then on re-employment his pay has to be fixed at the minimum of the scale of ^{pay of} the post. They submit that the fixation of the pay of the applicants at Rs.975/- ^{ie Rs 915-1660-} at the minimum of the scale of pay of the post has been properly fixed. Further they submit that the memorandum relied upon by the applicants is applicable to ^{the} accounts department. They also submit that Rule 16

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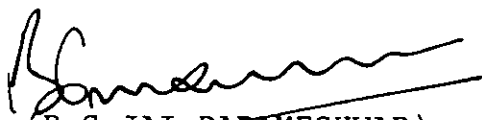
of the order is applicable only to ex-combatant clerks. The applicants were all working as C.P.O., Subedar, S.G.T. and Hawaldar in the military service below the rank of Commissioned Officer. Thus they submit that fixation of pay in accordance with Rule 86 and the impugned reply dated 27.10.98 is in order.

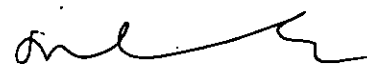
7. The main grievance of the applicants is that their pay has been fixed on re-employment at the minimum of the pay of the post of Postal Assistant. They submit that they were drawing basic pay more than the pay fixed on re-employment. The applicants did not dispute the fact that the respondent authorities while fixing their pay in the cadre of Postal Assistants have ignored their pension and pensionary benefits drawn by them from the military service. When that is so, under Rule 4(b) of the Order 1986 the pay on re-employment has to be fixed at the minimum of the scale of pay of the post to which a person is re-employed. When that is so, the applicants have not filed any rejoinder rebutting the averments made by the respondents. Further they were not working as ex-combatant clerks for claiming fixation of higher pay in the scale of pay ^{of the postal assistant.} ~~in the scale of pay.~~

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
8. In that view of the matter, we do not find any merit in this OA and the OA is liable to be dismissed. Accordingly, the OA is dismissed. No costs.


(B.S. JAI PARAMESHWAR)
10.3.00
Member (Judl.)


(R. RANGARAJAN)
Member (Admn.)

Dated : 10th March, 2000

(Dictated in Open Court)


21.3.00

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH.
HYDERABAD.

~~1ST AND 11ND COURT~~

TYPED BY
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CHECKED BY
APPROVED BY

COPY TO

1. HON'BLE
2. HON'BLE (ADMN) MEMBER.
3. HON'BLE M. (JUDL)
4. D.R. (ADMN)
5. SPARE
6. ADVOCATE
7. STANDING COUNSEL

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

THE HON'BLE MR. R. RANGARAJAN
MEMBER (ADMN)

THE HON'BLE MR. B.S. JAI PRAKASHESHWAR
MEMBER (JUDL)

DATE OF ORDER 10/3/2000

~~MA/RA/CF.NO~~

IN

C.A. NO. 652/99

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

C.P. CLOSED

R.A. CLOSED

DISPOSED OF WITH DIRECTIONS

~~DISMISSED~~

DISMISSED AS WITHDRAWN

ORDER/REJECTED

NO ORDER AS TO COSTS

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
घरेलू / DESPATCH

24 MAR 2000

हैदराबाद न्यायपीठ
HYDERABAD BENCH