

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 11.1.2001

TA No.7/1999 (SBCWF No.7161/1993)

Arjun Singh Rajawat s/o Shri Hari Singh Rajawat aged 42 years r/o 22, Shriji Nagar, Durga pura, Jaipur at present employed as Clerk in Kendriya Vidyalaya No.1, Tonk Phatak, Jaipur.

.. Applicant

Versus

1. Union of India through the Secretary to the Govt. of India, Ministry of Human Resources Development, Shastri Bhawan, New Delhi.
2. The Joint Commissioner (Admn), Kendriya Vidyalaya Sangathan (Hans.) 18, Institutional Area, Shaheed Jit Singh Marg, New Delhi.
3. The Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, 2-2A, Jhalana Dungari, Jaipur
4. The Principal, Kendriya Vidyalaya No.1, Tonk Phatak, Gandhi Nagar, Jaipur.

.. Respondents

Mr. R.S.Bhadaria, counsel for the applicant

Mr. V.S.Gurjar, counsel for the respondents

CORAM:

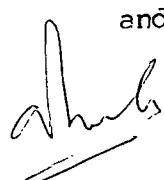
Hon'ble Mr. Justice B.S.Raikote, Vice Chairman

Hon'ble Mr. N.P.Nawani, Administrative Member

Order

Per Hon'ble Mr. N.P.NAWANI, Administrative Member

The applicant in this case had initially filed a SB Civil Writ Petition No. 7161/93 in the High Court of Judicature of Rajasthan, Jaipur Bench. The Writ Petition was subsequently transferred to this Bench of the Tribunal vide order dated 24.9.99 of the High Court. The pleadings were already complete when the said Writ Petition was transferred to this Bench of the Tribunal and the same is renumbered as TA No. 7/99.



2. The petitioner/applicants seeks following reliefs:-

"(i) issue writ of mandamus or any other writ, order or direction commanding the respondents to ignore total pension for the purpose of re-fixation of pay on re-employment as envisaged in Govt. of India, Min of Per & Trg O.M. No. 3/1/85-Estt.(P.II) dated 4th Apr 86.

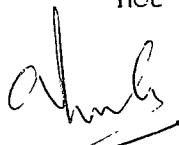
(ii) issue appropriate order, writ or direction in term that the pay of the petitioner be fixed at the minimum scale of the post and any difference arrived at after computing the pension be treated as personal pay as enjoined vide F.R. 9(21), (23) and (28) and order dated 28.5.93 (Ann-15) effecting recovery of Rs. 4,638/- be quashed. Alternatively the petitioner is also allowed to draw salary last drawn by him in the Army as allowed to his counterpart Shri Narendra Singh working as L.D.C. at Kendriya Vidyalaya, Phulera.

(iii) quash order dt 31.8.1992 (Ann.8) being illegal and contrary to the rule 9(21), (23) and (28) of FR.

(iv) issue appropriate writ, order or direction and any other relief which is considered just and proper in the fact and circumstances of the case."

3. We have heard the learned counsel for the parties and perused all the material on record.

4. The applicant had served as a Combatant Havildar Clerk in the Army for nearly 16 years and on release from Army was re-employed as LDC in the Kendriya vidyalaya No.1, Tonk Phatak in the pay scale of Rs. 950-1500 w.e.f. 26.5.1988. He also submitted the required option certificate under Order 16(2) of the Central Civil Services (Fixation of Pay of Re-employed Pensioners) Order 1986, his pay was not fixed as per these provisions and having failed to obtain the



desired relief from the respondents, has come before us with this OA.

5. After going through the pleadings and the arguments advanced, and the learned counsel for the parties were fair about this, we find that the essential controversy involved in this case is similar to the one this Bench of the Tribunal had an occasion to examine in OA No.388 of 1999 decided on 21.2.2000. Incidentally one of us was also a member of that Division Bench. In that case also, the applicant had joined as Combatant Clerk in the Indian Army and was retired on reaching the rank of Havildar during his more than 15 years service in Army. After his retirement from Army, the applicant therein was re-employed as LDC in a Kendriya Vidyalaya No.2, Jaipur Cantt. but he was also aggrieved with the fixation of pay made by the Kendriya Vidyalaya Sangathan and also with the recovery that was proposed to be made. In the case in hand, the applicant is also aggrieved by the pay fixation done by the authorities in the Kendriya Vidyalaya Sangathan and the order for recovery of an amount of Rs. 4638/- Based on the order dated 10.12.1999 of this Tribunal in OA No.85/96, Umed Singh v. Union of India and ors., it was held in OA No.388/99 decided on 21.2.2000 that the pay of Ex-Combatant Clerks on re-employment has to be fixed in terms of order No.16 of the CCS (Fixation of Pay of Re-employed Pensioners) Order 1986 and the amount of pension to be ignored under explanation (ii) shall be as laid down in the Ministry of Defence OM No. 2(1)83/D/Civ.I dated 8.3.83 as revised subsequently from time to time. The case in hand is fully covered by the above decision taken by this Tribunal in the two OAs mentioned above and can, therefore, be decided accordingly without examining the controversy all over again.

6. In view of above, it is our considered opinion that the ends of the justice will be served if we dispose of this OA with

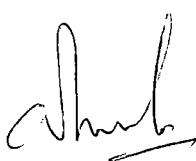


directions similar to those in OA No. 388/99 referred to in the preceding paragraph.

7. The OA is accordingly disposed of with the following directions:-

- i) The recovery of Rs. 4638/- shall not be made and any order requiring such recovery shall be treated as having been set-aside and quashed.
- ii) The exercise to fix the initial pay of the applicant will be taken up afresh and the fixation will be done in terms of order 16 of the Central Civil Services (Fixation of Pay of Re-employed Pensioners) Order, 1986, keeping in view the Ministry of Defence O.M. dated 8.2.1983 which relates to ignoring of the pension being drawn by the Ex-Combatant Clerk as revised subsequently from time to time. Such refixation of initial pay of the applicant may be finalised after issuing a show-cause notice to the applicant. This exercise of refixation of pay of the applicant may be completed within four months of the receipt of a copy of this order.

In the circumstances, there will be no order as to costs.



(N.P.NAWANI)

Adm. Member



(B.S.RAIKOTE)

Vice Chairman