**IN THE HIGH COURT FOR THE STATE OF TELANGANA**
**AT HYDERABAD**

**THE HON'BLE THE ACTING CHIEF JUSTICE SRI P.SAM KOSHY**

**AND**

**THE HONOURABLE SRI JUSTICE NARSING RAO NANDIKONDA**

**WRIT PETITION NO.23124 OF 2018**

(CNR.No. HBHC010490272018)

**Reserved on: 13.07.2026** **Pronounced on: 11 .11.2026**

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**Between:**

***A Dhruva Kumar and others***

***...Petitioner***

**AND**

***The Union of India and others***

***...Respondents***

**ORDER:** *(As per the Hon'ble Sri Justice Narsing Rao Nandikonda)*

This Writ Petition is filed challenging the order dated 09.01.2018 passed by the Central Administrative Tribunal, Hyderabad Bench, in O.A.No.37 of 2014, and the subsequent order dated 06.04.2018 passed in R.A.No.020/003/2018, whereby the Original Application filed by the petitioners seeking re-fixation of their pay on re-employment in the Employees' Provident Fund Organization, by taking into consideration the last pay drawn by them in the Defence Services, was dismissed.

2. Heard Mr. K Sudhakar Reddy, learned counsel for the petitioners; Ms. P Sarada, learned Standing Counsel appearing for respondent Nos.1 & 2; Mr. S.N.Veernder Singh, learned counsel appearing for respondent No.3; Mr. T Balaji, learned Standing Counsel appearaing for respondent Nos.4, 5 and 6 learned counsel appearing for the respondents. Perused the material available on record.

3. It is the case of the petitioners that they are ex-servicemen who had served in the Indian Air Force and Indian Army for about 18 to 20 years and retired from the Defence Services before attaining the age of 55 years. Thereafter, they were appointed as Social Security Assistants in the Employees' Provident Fund Organization under the ex-servicemen quota during the years 2006 to 2012. Petitioners Nos.1 to 7 retired from the Defence Services after the year 2006 and were re-employed during the years 2010 to 2012, whereas petitioners Nos.8 to 10 retired prior to the year 2006 and were re-employed during the year 2006. It is their grievance that, notwithstanding their previous service in the Armed Forces, their initial pay on

re-employment was fixed without extending the benefit of pay protection by taking into consideration the last pay drawn by them in the Defence Services.

4. Learned counsel for the petitioners submits that the Central Government issued the Central Civil Services (Fixation of Pay of Re-employed Pensioners) Orders, 1986, prescribing the procedure for fixation of pay of ex-servicemen upon their re-employment in civil posts. The said Orders were subsequently amended by the Department of Personnel and Training through Office Memorandum No.3/19/2009-Estt.(Pay-II), dated 05.04.2010. It is contended that, under paragraph 4(d)(i) of the said Orders, in the case of ex-servicemen who held posts below Commissioned Officer rank in the Defence Forces and retired before attaining the age of 55 years, the entire pension and pension equivalent of retirement benefits are required to be ignored while fixing their initial pay on re-employment. According to the petitioners, the respondents ought to have taken into consideration their last drawn pay in the Defence

Services, together with the applicable pay elements, while fixing their pay in the re-employed posts.

5. It is further submitted that the petitioners had submitted several representations requesting re-fixation of their pay in accordance with the aforesaid Orders and clarifications issued by the Government of India. Though initially certain communications dated 11.06.2013 & 24.06.2013 were issued by the respondents considering fixation of pay on the basis of the last pay drawn certificates, the said benefit was subsequently denied through communications dated 26/28.11.2013, 10.12.2013 and 11.12.2013. It is contended that the respondents have erroneously interpreted the relevant provisions and denied the legitimate entitlement of the petitioners to pay protection.

6. Learned counsel further submits that the petitioners are similarly situated to one G. Suryanarayana, who was re-employed as a Lower Division Clerk in the respondent Organization and whose pay was allegedly fixed by taking into

consideration the last pay drawn by him in the Armed Forces, vide order dated 03.02.2000. It is contended that denial of similar treatment to the petitioners amounts to discrimination and is violative of Article 14 of the Constitution of India. Reliance is also placed on the orders passed in W.P.No.17408 of 1992 and connected matters, the decision of the Rajasthan High Court in Union of India v. Mool Singh, and the judgments in Director General of Posts and Others v. B. Ravindran and another and ICAR v. Bidesh Singh and Others, in support of the contention that the pay last drawn in the Defence Services ought to be protected upon re-employment.

7. It is further contended that the Central Administrative Tribunal, Hyderabad Bench, without properly appreciating the provisions of the 1986 Orders, as amended by the Office Memorandum dated 05.04.2010, dismissed O.A.No.37 of 2014 by order dated 09.01.2018. The Review Application filed by the petitioners in R.A.No.020/003/2018 was also dismissed on 06.04.2018, observing that the grounds raised therein were merely a repetition of the contentions already considered. It is,

therefore, submitted that the impugned orders are contrary to the applicable rules and deserve to be set aside.

8. Per contra, learned counsel appearing for respondent Nos.2 to 6, referring to the counter affidavit, submits that the petitioners were appointed in the Employees' Provident Fund Organisation under the ex-servicemen quota by direct recruitment and their initial pay was fixed strictly in accordance with the applicable rules governing re-employed pensioners. It is submitted that the petitioners admittedly held posts below Commissioned Officer rank in the Defence Services and, therefore, their pay fixation is governed by paragraph 4(d)(i) of the Central Civil Services (Fixation of Pay of Re-employed Pensioners) Orders, 1986, as amended by the Office Memorandum dated 05.04.2010.

9. Learned counsel submits that, under the aforesaid provisions, though the entire pension and pension equivalent of retirement benefits are to be ignored for the purpose of initial pay fixation, the pay of re-employed ex-servicemen is required to be fixed at the entry pay in the revised pay structure applicable to direct

recruits appointed to the corresponding civil posts on or after 01.01.2006. It is specifically contended that the said provisions do not confer any right upon the petitioners to claim protection of the last pay drawn by them in the Defence Services. The respondents further contend that the benefit contemplated under paragraph 3(v) of the Office Memorandum dated 05.04.2010 is applicable to a different category of re-employed personnel and cannot be extended to the petitioners, who were holding posts below Commissioned Officer rank at the time of retirement.

10. It is further submitted that, upon receipt of the representations submitted by the petitioners, the matter was referred to the Deputy Director (Audit), who examined the issue and opined that the petitioners were not eligible for protection of their last drawn pay. Thereafter, the Employees' Provident Fund Organization, Head Office, issued clarifications dated 26.07.2017, based on the clarifications issued by the Department of Personnel and Training, dated 04.07.2016 & 09.11.2016 reiterating that the initial pay of ex-servicemen who

held posts below Commissioned Officer rank and retired before attaining the age of 55 years shall be fixed at the entry pay of the re-employed post and that the relevant instructions do not provide for protection of the last pay drawn in the Defence Services.

11. Learned counsel further submits that the Central Administrative Tribunal, after considering the relevant provisions and the material placed before it, rightly dismissed O.A.No.37 of 2014 by order dated 09.01.2018. The Tribunal specifically observed that merely because certain other employees were granted the benefit of re-fixation of pay on the basis of their last drawn pay, the petitioners cannot claim similar relief contrary to the applicable instructions, as an illegality committed in one case cannot be perpetuated in other cases. The Review Application was also dismissed on 06.04.2018, as the petitioners failed to establish any error apparent on the face of the record. It is, therefore, contended that the impugned orders do not suffer from any illegality or

perversity warranting interference by this Court under Article 226 of the Constitution of India.

12. In support of the aforesaid submissions, learned counsel for the respondents places reliance on the judgment of the Hon'ble Supreme Court in Union of India and Others v. Anil Prasad, reported in 2022 LiveLaw (SC) 513, decided on 20.05.2022 in Civil Appeal No.4073 of 2022, wherein the Hon'ble Supreme Court considered the question whether an employee who had served in the Armed Forces would, upon re-employment in Government service, be entitled to fixation of pay at par with the last pay drawn by him in the Armed Forces. The Hon'ble Supreme Court, while interpreting paragraph 8 of the Central Civil Services (Fixation of Pay of Re-employed Pensioners) Orders, 1986, held that the last drawn pay in the Armed Forces cannot, as a matter of right, be claimed as the pay to be fixed upon re-employment in a civil post.

13. The relevant observations of the Hon'ble Supreme Court in paragraph Nos.5.1, 5.3 and 5.4 are extracted hereunder:

*Paragraph 5.1 — Relevant question considered by the Supreme Court:*

*Whether on re-employment in Government service, a former Armed Forces employee is entitled to pay at par with his last drawn Armed Forces pay.*

*Paragraph 5.3 — Relevant observations:*

*The Hon'ble Supreme Court explained that paragraph 8 provides for advance increments corresponding to completed years of Armed Forces service, calculated with reference to the pay scale of the civil post. The pay so determined cannot exceed the basic pay last drawn in the Armed Forces. It further clarified that the last drawn pay operates as a ceiling and does not confer an independent right to pay protection.*

*Paragraph 5.4 — Relevant observations:*

*The Hon'ble Supreme Court held that the fixation of pay in the case before it was in accordance with paragraph 8 of the 1986 Orders and that the provision does not entitle a retired Armed Forces employee to automatic fixation of basic pay at par with the last pay drawn in military service. Accordingly, the contrary judgment of the High Court was set aside.*

14. Placing reliance on the aforesaid judgment, learned counsel for the respondents submits that the law laid down by the Hon'ble Supreme Court makes it clear that an ex-serviceman, merely by virtue of having drawn a higher pay in the Defence Services, cannot claim fixation of his pay at the same level upon

re-employment in a civil post. It is submitted that the petitioners' claim for protection of the last pay drawn in the Defence Services is contrary to the applicable provisions governing pay fixation and, therefore, the Tribunal was justified in rejecting their claim. Learned counsel accordingly prays for dismissal of the Writ Petition.

15. Having heard learned counsel appearing for the respective parties and upon perusal of the material available on record, the question that arises for consideration before this Court is whether the petitioners, who are ex-servicemen re-employed as Social Security Assistants in the Employees' Provident Fund Organization, are entitled to fixation of their initial pay by taking into consideration the last pay drawn by them in the Defence Services and whether the orders passed by the Central Administrative Tribunal warrant interference by this Court.

16. Admittedly, the petitioners had served in the Indian Air Force and Indian Army and retired from the Defence Services before attaining the age of 55 years. Subsequently, they were

appointed as Social Security Assistants in the respondent Organization under the ex-servicemen quota. It is also not in dispute that the petitioners held posts below Commissioned Officer rank at the time of their retirement from the Defence Services. Therefore, their entitlement to fixation of pay upon re-employment is required to be examined in the light of the Central Civil Services (Fixation of Pay of Re-employed Pensioners) Orders, 1986, as amended by the Office Memorandum dated 05.04.2010.

17. The principal contention of the petitioners is that, since the entire pension and pension equivalent of retirement benefits are required to be ignored while fixing their initial pay, they are entitled to protection of the last pay drawn by them in the Defence Services. However, the said contention cannot be accepted. Merely because the pension and pensionary benefits are required to be ignored for the purpose of initial pay fixation, the same would not automatically confer any right upon the petitioners to claim fixation of pay at par with the last pay drawn by them in the Defence Services. The entitlement to pay

protection must necessarily flow from the applicable rules and instructions governing their re-employment.

18. A perusal of the counter affidavit filed by respondent Nos.2 to 6 would disclose that the respondents have specifically explained the manner in which the initial pay of the petitioners was fixed. As per the Office Memorandum dated 05.04.2010, in the case of ex-servicemen who held posts below Commissioned Officer rank and retired before attaining the age of 55 years, the entire pension and pension equivalent of retirement benefits shall be ignored. However, the initial pay on re-employment shall be fixed at the entry pay in the revised pay structure of the re-employed post, as applicable to direct recruits appointed on or after 01.01.2006. The said provision does not contemplate protection of the last pay drawn by such ex-servicemen in the Defence Services.

19. It is pertinent to note that the respondents, upon receipt of the representations submitted by the petitioners, referred the matter to the Deputy Director (Audit), who, after examining the

applicable provisions, opined that the petitioners were not entitled to pay protection. The Employees' Provident Fund Organization, Head Office, also issued clarifications dated 26.07.2017, based on the clarifications issued by the Department of Personnel and Training, reiterating that the initial pay of re-employed ex-servicemen who held posts below Commissioned Officer rank shall be fixed in accordance with the entry pay applicable to the re-employed post. Therefore, the action of the respondents in fixing the initial pay of the petitioners in accordance with the aforesaid instructions cannot be termed illegal or arbitrary.

20. At this juncture, it is relevant to refer to the judgment of the Hon'ble Supreme Court in Union of India and Others v. Anil Prasad, reported in 2022 LiveLaw (SC) 513, relied upon by learned counsel for the respondents. In the said judgment, the Hon'ble Supreme Court, while interpreting paragraph 8 of the Central Civil Services (Fixation of Pay of Re-employed Pensioners) Orders, 1986, considered the question whether an employee who had served in the Armed Forces would, upon re-

employment in Government service, be entitled to fixation of pay at par with the last pay drawn by him in the Armed Forces. The Hon'ble Supreme Court categorically held that the last drawn pay in the Armed Forces cannot be claimed as a matter of right upon re-employment in a civil post and that the fixation of pay must be in accordance with the applicable provisions governing the re-employed post.

21. The Hon'ble Supreme Court, in the aforesaid judgment, further clarified that the reference to the last drawn pay in the Armed Forces under paragraph 8 of the 1986 Orders is only for the purpose of ensuring that the pay computed upon re-employment does not exceed the basic pay last drawn in the Armed Forces. It was specifically held that such a provision does not confer any right upon a retired Armed Forces employee to claim protection of the last drawn pay. The Hon'ble Supreme Court accordingly set aside the judgment of the Delhi High Court, which had directed fixation of pay at par with the last pay drawn by the employee in the Armed Forces.

22. Though the aforesaid judgment was rendered in the context of paragraph 8 of the 1986 Orders, relating to Emergency Commissioned Officers and Short Service Commissioned Officers, the principle laid down therein, namely, that protection of the last drawn pay upon re-employment cannot be claimed as a matter of right in the absence of a specific provision, is relevant to the issue involved in the present Writ Petition. In the case on hand, the petitioners admittedly held posts below Commissioned Officer rank and their pay fixation is governed by the specific provisions applicable to such category of ex-servicemen. The respondents have demonstrated that the relevant instructions provide for fixation of initial pay at the entry level of the re-employed post and do not provide for automatic protection of the last pay drawn in the Defence Services. Therefore, the claim of the petitioners is not sustainable.

23. Insofar as the contention of the petitioners that one G. Suryanarayana, who was similarly re-employed in the respondent Organization, was extended the benefit of pay

protection is concerned, the respondents have specifically stated in their counter affidavit that the pay fixation of the said employee was governed by the rules prevailing at the relevant point of time, which are not applicable to the petitioners. Even otherwise, merely because a particular benefit was extended to another employee, the petitioners cannot claim similar treatment unless they establish their entitlement under the applicable rules. It is a settled principle of law that Article 14 of the Constitution of India does not envisage negative equality and that an illegality or irregularity committed in one case cannot be perpetuated by extending the same benefit to other employees contrary to the governing rules.

24. It is also pertinent to observe that the Central Administrative Tribunal, Hyderabad Bench, while dismissing O.A.No.37 of 2014 by order dated 09.01.2018, had considered the relevant provisions and the contentions advanced by the petitioners. The Tribunal specifically observed that the respondents had acted in accordance with the instructions contained in the Office Memorandum dated 05.04.2010 and that merely because

certain other employees were granted re-fixation of pay on the basis of the last pay drawn, the petitioners cannot claim similar relief. The Tribunal further observed that even if any illegality had been committed in some other cases, the same cannot be a ground to direct the respondents to perpetuate such illegality.

25. This Court is in agreement with the findings recorded by the Tribunal. The petitioners have not been able to demonstrate that the fixation of their initial pay by the respondents is contrary to any mandatory provision of the applicable rules. On the contrary, the material placed on record would disclose that the respondents have fixed the pay of the petitioners in accordance with the instructions governing the re-employment of ex-servicemen who held posts below Commissioned Officer rank. The contention that the petitioners are entitled to protection of the last pay drawn by them in the Defence Services, merely because their pensionary benefits are required to be ignored, is devoid of merit.

26. Insofar as the order dated 06.04.2018 passed in R.A.No.020/003/2018 is concerned, the Tribunal has specifically observed that the Review Application was nothing but a repetition of the contentions already raised and considered in the Original Application. It is well settled that the scope of review is limited and a Review Application cannot be treated as an appeal in disguise for re-appreciation of the entire matter. In the absence of any error apparent on the face of the record, the Tribunal was justified in dismissing the Review Application.

27. It is well settled that, while exercising jurisdiction under Article 226 of the Constitution of India, this Court would not ordinarily interfere with the findings recorded by the Central Administrative Tribunal unless such findings are demonstrated to be perverse, arbitrary or contrary to the applicable provisions of law. In the present case, the Tribunal, upon due consideration of the material available on record and the relevant rules governing fixation of pay of re-employed ex-servicemen, has rejected the claim of the petitioners by assigning cogent reasons. This Court does not find any jurisdictional error, illegality or

perversity in the findings recorded by the Tribunal warranting interference.

28. In view of the aforesaid discussion and having regard to the law laid down by the Hon'ble Supreme Court in Union of India and Others v. Anil Prasad (supra), this Court is of the considered opinion that the petitioners have failed to establish any legally enforceable right to claim fixation of their initial pay at par with the last pay drawn by them in the Defence Services. The action of the respondents in fixing the initial pay of the petitioners in accordance with the applicable rules and instructions cannot be found fault with. The Tribunal has rightly dismissed the Original Application as well as the Review Application. Therefore, this Court does not find any merit in the Writ Petition warranting interference with the impugned orders.

29. Accordingly, the Writ Petition is dismissed, confirming the order dated 09.01.2018 passed by the Central Administrative Tribunal, Hyderabad Bench, in O.A.No.37 of 2014 and the

subsequent order dated 06.04.2018 passed in R.A.No.020/003/2018. There shall be no order as to costs.

30. Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

**P. SAM KOSHY, ACJ**

**JUSTICE NARSING RAO NANDIKONDA**

**Date:** 11.11.2026.
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