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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2204/2002

New Delhi this the 25<sup>th</sup> day of February, 2003.

HON'BLE MR. SHANKER RAJU, MEMBER (JUDICIAL)

S.B.Jain  
I.R.S. (Retd.)  
s/o Late Shri Sohan Lal Jain  
r/o M-108 Greater Kailash-II  
New Delhi - 110 048.  
last employed at Delhi. ...      Applicant

(In person)

v.

1. Union of India through  
The Secretary  
Department of Public Enterprises  
Block 14, C.G.O.Complex  
Lodi Road  
New Delhi - 110 003.

2. The Secretary  
Department of Pension & Pensioners' Welfare  
North Block,  
New Delhi - 110 001.

3. Department of Revenue  
North Block  
New Delhi - 110 001.      ... Respondents

(By Sh. Mohar Singh, Advocate)

O R D E R

By Mr. Shanker Raju, Member (J):

In this OA applicant impugns respondents' order dated 5.7.2002 where his request for revision of pension has been rejected. He has sought grant of basic pension at the minimum of the pay scale of Member, CBDT at Rs.12,000/- w.e.f. 1.1.96 with interest and arrears.

2. Applicant joined Indian Revenue Service on 16.7.51 and was promoted as Member, CBDT on 30.4.84. He was transferred on 1.12.85 as Additional Secretary to Government of India in the Ministry of Finance, Bureau of Public Enterprises (BPE). In 1985 the post of Member, CBDT

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and Additional Secretary were equivalent in all respects, carrying basic pay of Rs.3,000/- per month. Applicant superannuated on retirement as an officer of Indian Revenue Service holding the post of Additional Secretary, BPE on 31.10.86. On recommendations of 5th CPC Government has decided that w.e.f. 1.1.1996 pension of all pensioners irrespective of the date of retirement shall not be less than 50% of the minimum pay in revised scale of pay introduced w.e.f. 1.1.96 of the post last held by the pensioner. Applicant is getting a basic pension of Rs.11,200/- w.e.f. 1.1.96, which is 50% of the minimum of the pay scale admissible to Additional Secretary to the Government of India.

3. By an order dated 7.12.2001 issued by Department of Revenue pay scale for the post of Member, CBDT has been revised from Rs.22400-600-26000 to Rs.24050-650-26000 retrospectively w.e.f. 1.1.96. Applicant preferred a representation to treat him retired as Member, CBDT and in view of the revision of pay scale w.e.f. 1.1.96 his pension be revised to Rs.12,025/- per month, i.e., 50% of the minimum of the revised pay scale now applicable to a Member, CBDT, which was rejected, giving rise to the present OA.

4. Applicant contended that the order rejecting his claim for revision of pension is without reasons and shows non-application of mind. It is stated that applicant was promoted on regular and substantive basis as Member, CBDT on 30.4.84 and should have been continued as such till his superannuation. His transfer as Additional Secretary, carrying a lesser pay scale than the post of Member, CBDT

was in violation of FR 15-A as neither inefficiency or misbehaviour was detected nor has applicant requested for such a transfer. It is stated that had he continued as Member, CBDT, revision would have been made effective in his case w.e.f. 1.1.96 and he would have entitled for revision in his pension. This, according to respondents, is violative of Articles 14 and 16 of the Constitution of India and also in violation of FR 22-C (8) as anomaly has been created and as per NBR on posting of a Government servant on an ex-cadre post, all benefits are to be protected. The cause of action had arisen only when earlier parity between the posts of Member, CBDT and Additional Secretary to Government of India was disturbed.

5. Applicant also highlighted PPOs of Members of Board superannuated to indicate that their pension has been revised from 1.1.96 to Rs.12,025/-.

6. On the other hand, respondents' counsel Sh. Mohar Singh, strongly rebutted the contentions of applicant and stated that applicant who retired on attaining the age of superannuation was holding the post of Additional Secretary on substantive basis carrying a pay scale of Rs.7300-7600 recommended by the 4th CPC. In pursuance of the recommendations of 5th CPC his pension was revised to Rs.11,200/-. In so far as claim for refixation of pension in the pay scale of Rs.24050-26000 in pursuance of Department of Revenue's order dated 7.12.2001 is concerned, applicant was Member of CBDT before joining as Additional Secretary on 12.8.85 but scale of pay of Member, CBDT was revised upwardly w.e.f. 1.1.96 whereas applicant retired 15 years back. Shri Mohar Singh further stated that the

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post held by applicant was Additional Secretary in the pay scale of Rs.7300-7600 and as per 5th CPC's recommendation the corresponding pay scale is Rs.22400-24500. The pension of applicant in pursuance of OM dated 17.12.98 and clarification dated 11.5.2001 has been rightly fixed at Rs.11,200/- as it was 50% of the minimum of the corresponding pay scale as on 1.1.96 of the scale of pay held by applicant (pensioner). Revision of pay scale w.e.f. 1.1.96 resorted to through order dated 7.12.2001 would not apply to applicant as he ceased to be a member of the Indian Revenue Service w.e.f. 31.10.986 and has never drawn the pay scale of Rs.24500-26000 but remained in the pay scale of Rs.7300-7600.

7. I have carefully considered the rival contentions of the parties and perused the material on record. As applicant, at the time of his retirement on attaining the age of superannuation was holding the post of Additional Secretary on substantive basis w.e.f. 12.8.85 and had already relinquished the charge as Member, CBDT, his pension was accordingly revised on the recommendation of 5th CPC at Rs.11,200/- which is as per DOPT OM dated 7.12.968 and clarification dated 11.5.2001. As the same was 50% of the minimum of the corresponding pay scale as on 1.1.96 and the corresponding scale of pay held by applicant of Rs.7300-7600 was Rs.22400-26000 there is no infirmity in the fixation of pension of applicant.

8. In so far as upward revision of pay scale of Member, CBDT is concerned, as applicant has ceased to be a member of the Indian Revenue Service from 31.10.86 and was holding the pay scale of Rs.700-7600 and remained in the

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same pay scale the aforesaid upward revision would not apply to his case as he was working as an Additional Secretary in the pre-revised pay scale, which was corresponded to Rs.22400-26000 as per 5th CPC recommendations. Moreover, at this belated stage after 15 years of retirement the OM issued by the Ministry of Finance shall have no application to applicant's case.

9. In so far as the plea of transfer as Additional Secretary is concerned, having failed to object to the same at the appropriate time in the year 1985 it is not open for applicant now to assail the transfer order.

10. In this view of the matter and for the foregoing reasons, OA is found bereft of merit and is accordingly dismissed. No costs.

  
(Shanker Raju)  
Member (J)

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