

Item No.23

28.7.2006

MA 374/2006
OA 2758/2002

Present: Sh. Bishan Saroop, applicant in person.
Sh. A.P. Sahay, counsel for respondents

MA 374/2006

We have heard applicant in person and learned counsel for respondents.

2. In the OA 2758/2002, applicant had sought various reliefs which read as follows:-

- "(i) set aside the PPO's dated 15.6.2001 sent by the respondents pursuant to which the pension of the petitioner was sought to be reduced, in the interest of justice;*
- (ii) command the respondent to re-fix the pension of the petitioner @ Rs.998/- w.e.f. 1.12.82, Rs.1797/- w.e.f. 1.1.86 and Rs.5336/- w.e.f. 1.1.96 and also direct the respondent to pay the arrears of the same with 18% of the interest as the respondent has wrongly fixed the pension of the petitioner;*
- (iii) pass any other order/orders which this Hon'ble Court may deem fit and proper in the fact and circumstances of the present case."*

3. Said OA 2758/2002 was allowed vide order dated 28.10.2003 with following directions:-

- "4. Since the same has not been done admittedly by the respondents, we allow the present OA and quash the impugned orders and direct that the pension of the applicant be restored. However, the respondents are at liberty to take a fresh action after issuing a proper show cause notice and while deciding the fixation of pay, the respondents shall also afford an opportunity of hearing to the applicant for proper fixation of his pension. No costs."*

4. Thereafter, the respondents being aggrieved by the aforesaid order instituted Writ Petition (Civil) No.14127/2004, which came to be dismissed vide order dated 17.8.2005 maintaining the orders passed by the Tribunal. In the said order, it was specifically noticed that applicant herein is drawing a pension of

13

Rs.1172/- w.e.f. 01.1.1986 and Rs.3544/- w.e.f. 01.1.1996. An order dated 15.6.2001 whereby applicant's pension was reduced to Rs.1072/- and Rs.3246/- w.e.f. 01.1.1986 and w.e.f. 01.1.1996 respectively had not been given effect to. It was also observed that the respondents could revise said pension only after issuing proper show cause notice and after giving an opportunity of hearing to the applicant.

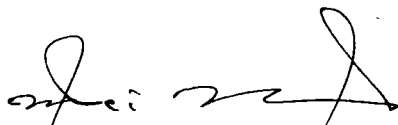
5. In the present MA, applicant seeks execution of aforesaid order dated 28.10.2003. Upon hearing applicant in person as well as respondents' counsel, we understand that the basic dispute, which the applicant has in the present MA is that his pension ought to have been fixed to Rs.998/- w.e.f. 01.12.1982, Rs.1797/- w.e.f. 01.1.1986 and Rs.5336/- w.e.f. 01.1.1996 respectively. This prayer of applicant, in present MA, cannot be entertained and given effect to for the simple reasons that we are only concerned with the execution of the order dated 28.10.2003 whereby such relief as prayed in his OA, had not been accorded.

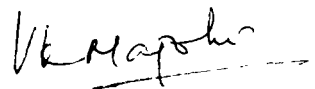
6. Shri A.P. Sahay, learned counsel for respondents drawing our attention to Annexure R-2 dated 20.3.2006 contended that the applicant had been requested to furnish copies of old PPOs indicating fixation of his pension by the Third Pay Commission as well as Fourth Pay Commission, besides copy of negative option exercised by him at the time of retirement. Since the applicant retired on attaining the age of superannuation w.e.f. 30.11.1982 at this belated stage, it would be unjust and unreasonable on the part of respondents to direct him to provide copy of these PPOs. They themselves revised the pension in the year 1997 and 1998 consequent upon implementation of Fifth Pay Commission. At

100
14

this late stage, the respondents would be well advised not to rake up old and dead issues and should give quietus to said proposal.

7. If the applicant has any grievance about fixation of his pension other than as directed vide aforesaid order dated 28.10.2003, it would be independent cause of action, which has to be instituted by way of proper proceedings. Accordingly, MA is disposed of, however, liberty is granted to the applicant to take appropriate steps in accordance with law for his remaining relief.


(Mukesh Kumar Gupta)
Member (J)


(V.K. Majotra) 28-706
Vice-Chairman (A)

/gkk/