



**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

O.A. No.60/1093/2018 Date of decision: 11.3.2020

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CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J).

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Satpal Singh, Divisional Accounts Officer (Retired), aged 70 years, S/o Shri Shiv Ram Singh, resident of H. No.141, Rajiv Colony, Gali No.4, Hansi Road, Karnal District, Karnal (Haryana State) Pin 132001. Group B.

...APPLICANT

BY: SH. PUNEET GUPTA, COUNSEL FOR THE APPLICANT.

VERSUS

1. Union of India through the Secretary, Ministry of Personnel, PG & Pensions, Department of Pension and Pensioners Welfare, 3rd Floor, Lok Nayak Bhawan, Khan Market, New Delhi-110001.
2. The Accountant General (A&E) Haryana, Sector 33-B, Chandigarh-160020 (Plot No.4 and 5), Pin-160017.

...RESPONDENTS

**BY: SH. ASHWANI SHARMA, COUNSEL FOR
 RESPONDENT NO.1.
 SH. BARJESH MITTAL, COUNSEL FOR
 RESPONDENT NO.2.**



ORDER (Oral)

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SANJEEV KAUSHIK, MEMBER (J):-

1. Present O.A. has been filed by the applicant praying for setting aside order dated 30.5.2018 (Annexure A-4), to the extent it reduces his pension w.e.f. 1.5.2009. Further direction has also been sought to command the respondents not to reduce his pension, which he was already drawing w.e.f. 1.5.2009 and further to revise his pension under the 7th CPC Pension rules in view of the C&R (Annexure A-1) by applying format of multiplier 2.57 and notional pay fixation.
2. After exchange of pleadings, matter came up for hearing today.
3. The applicant who was employee of Accountant General, Haryana, after rendering 38 years 8 months 28 days of service as Senior Divisional Accounts Officer, retired after attaining the age of superannuation on 30.4.2009. The respondents issued PPO dated 11.5.2009 in which last pay drawn by the applicant was shown as Rs.29,290/- and 50% of that as pension is Rs.14,645/-. Wrongly, applicant has been allowed pension while calculating DP @Rs.14,645/- instead of Rs.11,945/-. The applicant continued to draw pension from 1.5.2009 till 29.5.2018 when respondents passed order dated 30.5.2018 (Annexure A-4), where while recalculating pension of the applicant, while implementing 7th



CPC, they have issued revised PPO and the total pension of the applicant has been fixed @Rs.37,700/- by taking his notional pay Rs.75,400/-, while as per submission of learned counsel, his pension should be revised to Rs.52,987/-. Therefore, learned counsel for the applicant vehemently argued that the impugned order suffers from inherent defect and that before passing it, he was neither heard nor issued any notice. Secondly, he argued that action of the respondents is also contrary to para 1.12 of letter dated 18.4.2018 (Annexure A-5), as per which once pension has been authorized finally, then it cannot be revised to the disadvantage of Govt. servant, unless on detection of a clerical error. Lastly, he argued that action of the respondents will result in recovery of amount which they have paid w.e.f. 1.5.2009 to 29.5.2018 which is not permissible. To counter recovery, he placed reliance on **State of Punjab & Ors. vs. Rafiq Masih (whitewasher) etc.** 2015 (1) SCT 195, and argued that case of the applicant falls under clause 3 of the exceptions, thus he prayed that respondents be restrained from making recovery pursuant to order Annexure A-4.

4. Respondents have filed written statement, wherein they have submitted that while issuing PPO (Annexure A-2), it has been clarified that last pay drawn by the applicant was Rs.29,290/- and 50% of it is Rs.14,645+DP Rs.11945/-.



Wrongly, applicant was drawing higher DP @Rs.14,645/- instead of Rs.11,945/- which the applicant did not object till respondents issued revised PPO pursuant of 7th CPC. An error can always be corrected. In support of above, learned counsel for the respondents vehemently argued that there is no fault on the part of employer while fixing pension and issuing PPO at the time of retirement of the applicant. However, inadvertently, applicant has been paid higher pension by adding higher DP, which resulted into excess payment. He also added that the fact that applicant was getting higher DP was in his knowledge because while issuing PPO (Annexure A-2), it has been clearly mentioned that he was entitled to DP @Rs.11945/- despite that he continued to receive higher pension without informing the respondents that he is getting pension by adding higher DP. Lastly, he argued that there is no prayer in the O.A. by the applicant with regard to recovery and Bank also is not a party, therefore, his prayer for not effecting recovery cannot be taken into account for want of pleadings and non-joinder of parties.

5. I have given my thoughtful consideration to the entire matter.
6. I am of the view that this petition deserves to be dismissed for the simple reason that when PPO was issued on 11.5.2009, respondents have rightly clarified that last paid of



the applicant was Rs.29,290/- and 50% of which as pension comes out to be Rs.14,645+DP Rs.11945/-. Wrongly, applicant was drawing higher DP @Rs.14,645/- instead of 11,945/-. Though applicant was getting higher pension when the same was revised by issuing revised PPO (Annexure A-4), which has rightly been done by the respondents by taking into account the actual payment due to applicant and rightly his pension has been fixed @Rs.23,300/- as per OM dated 6.7.2014 (Annexure R-5). Thus, I do not find any illegality in issuance of revised PPO by the respondents. Since there is no prayer by the applicant against recovery, therefore, this prayer cannot be considered for want of pleadings.

7. In the wake of above, the Original Application is found to be devoid of any merit and is rejected. No costs.

(SANJEEV KAUSHIK)
MEMBER (J)

Date: 11.3.2020.
Place: Chandigarh.

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