CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

OA/021/175/2019

HYDERABAD, this the 19th day of December, 2019

Hon'ble Mr. B.V. Sudhakar, Admn. Member

M. Samuel, Gr-C,
S/o. Late M.P. Chennaiah,
Aged 65 years, Occ: LSG SA,
Hyd. Sorting Dn.,
Hyderabad ï 500 016. TS

... Applicant

(By advocate: Mr. B. Gurudas)

Vs.

1. The Union of India rep. by
   The Secretary to the Govt. of India,
   M/o. Communications & IT,
   Dept. of Post,
   New Delhi ï 110 001.

2. The Secretary to Govt. of India,
   Ministry of Personnel PG & Pensions,
   Dept. of Pension & Pensionersôs Welfare,
   New Delhi ï 110 003.

3. The Chief Postmaster General,
   Telangana Circle,
   Hyderabad ï 500 001.

4. The Director Postal Accounts,
   AP & TG Circles,
   Hyderabad ï 500 001.

5. The Senior Superintendent RMS,
   Hyd Sorting Dn.,
   Hyderabad ï 500 027 TS.

... Respondents

(By advocate: Mrs. Megha Rani Agarwal,
Addl. CGSC)

O R D E R (ORAL)

Hon'ble Mr. B.V. Sudhakar, Admn. Member

2. This O.A. has been filed challenging the decision of the respondents in sanctioning retirement benefits of the applicant without taking into account the enhanced Dearness Allowance of 10%, which was allowed w.e.f. 01.07.2013.

3. Brief facts of the case are that the applicant retired from the respondents organization on 30.06.2013. Retirement benefits were disbursed to the applicant without taking into account the 10% Dearness Allowance (in short, DA) granted w.e.f. 01.07.2013. Applicant represented on 24.12.2018 with a request to consider enhanced DA in working out the retirement benefits. The same has not been responded to till date. Hence, the OA.

4. Contentions of the applicant are that he has retired on 30.06.2013, and would cease to be a Govt. servant on the midnight of the date of retirement. Applicant is eligible for higher DA by virtue of rendering service for 6 months preceding the retirement date from 01.01.2013 to 30.06.2013. Based on the enhanced DA, retirement benefits are to be calculated. By not allowing enhanced DA, the decision of the respondents is illegal and irregular. Applicant cited that this Tribunal in OA 252/2015 dated 18.11.2015 has allowed similar relief based on the Full Bench Judgement of the Hon'ble High Court of Andhra Pradesh and Telangana State in **Principal Accountant General, AP** v. **C. Subba Rao** (Writ Petition No.22042/2003).

5. Respondents in their reply statement have opposed the contention of the applicant by stating that as per Department of Pension and Pensioners Welfare, OM dated 02.09.2008, the relevant para(s) of which are extracted hereunder, applicant is not eligible for enhanced DA:

> ñ4.1 The term ôEmolumentsô for purposes of calculating various Pensionary benefits other than various kinds of Gratuity shall have the same meaning as in Rule 33 of the Central Civil Services (Pension) Rules, 1972.
>
> 4.2. xxxxxxxxxxxxxxxxxxxxx
>
> 4.3 In the case of all kinds of Gratuity, DA admissible on the date of retirement shall continue to be treated as emoluments along with the emoluments as defined in paragraph 4.1 above.ò

6. Having retired from service, the applicant is entitled for DR, which has been allowed and permitted under the rules. Accordingly, applicant has been granted Dearness Relief due to him. The respondents have stated that they have filed Writ Petition Nos.35139/2017 and 35126 of 2017 in the Honôble High Court of Andhra Pradesh and Telangana State against the impugned orders dated 11.03.2016 of this Tribunal in OA No.189/2016 and 190/2016 respectively. In the said OA, the relief sought in the present OA, was granted. However, the Honôble High Court vide Order dated 24.10.2017 dismissed both the Writ Petitions, keeping in view the Full Bench Judgement of the Honôble High Court of AP and Telangana in Writ Petition Nos.22042, 24191, 24308 and 24324 of 2003. The matter was thereafter carried to Honôble Supreme Court in SLP No.5646 of 2018 and 5647 of 2018 respectively, against the orders of the Honôble High Court. The Honôble Supreme Court stayed the orders of the Honôble High Court in WP

Nos.35126 of 2017 and 35139 of 2017 (dated 24.10.2017), vide its order dated 12.03.2018.

7. In view of the above developments, the respondents are directed to consider and grant relief sought in the instant OA based on the judgement of the Hon'ble Supreme Court in the cited SLPs, as and when it is delivered/decided finally.

With the above directions, the OA is disposed of with no order as to costs.

(B.V. SUDHAKAR)
ADMN. MEMBER

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