

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**MUMBAI BENCH, MUMBAI.**

**ORIGINAL APPLICATION No.130/2018**

**Date of Decision: 18.02.2020.**

***CORAM: R. VIJAYKUMAR, MEMBER (A)***

Shri D.B. Vyas, aged 61 years  
Occu: Retired as Regional Director  
Central Board of Workers Education,  
(Now DTNBWED).

R/at Paras Society, Behind RTO,  
Warasia, Vadodara 39006.

***(By Advocate Shri R.G. Panchal)***

... *Applicant*

**VERSUS**

1. Union of India,  
Through Secretary, Ministry  
of Labour and Employment,  
Shram Shakti Bhavan, Rafi Marg,  
New Delhi 110 011.

2. The Chairman,  
Central Board of Workers Education,  
(Now DTNBWED) Room No.21 Jam  
Nagar House, Mansing Rd, New Delhi – 011.

3. The Director  
Central Board of Workers Education,  
(Now DTNBWED) North Ambazari,  
Nagpur 440 033.

4. Accounts Officer,  
Central Board of Workers Education,  
(Now DTNBWED) North Ambazari,  
Nagpur 440 033.

***(By Advocate Ms. Vaishali Choudhari)***

... *Respondents*

**ORDER** (Oral)

*Per : R. Vijaykumar, Member (A)*

Today, when the matter was called out,  
heard Shri R.G. Panchal, learned counsel for



the Applicant and Shri Ms. Vaishali Choudhari, learned counsel for the Respondents. We have carefully perused the case records.

2. The orders of the respondents impugned in this OA are dated 11.12.2017 and 13.11.2017 and the OA has been filed on 29.01.2018 under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:

*"8(a) This Hon'ble Tribunal be pleased to quash and set aside the impugned orders dated 11.12.2017 and 13.11.2017 and further be pleased to direct the respondents not to downgrade the applicant's pension as being paid from the date retirement i.e. 31.12.2017;*

*b) This Hon'ble Tribunal further be pleased to restrain the respondents from effecting the impugned recovery of Rs.189,751 allegedly on account of over payment of Pay & Allowance due to erroneous of pay fixation from 9.7.2017 to 30.06.2012, in view of the law laid down by the Apex Court in the case of State of Punjab & Ors. Vs. Rafiq Masih (White Washer) decided on 18 December, 2014;*

*c) This Hon'ble Tribunal further be pleased to direct the respondents to repay the*



*amount recovered or withheld by deducting from retiral dues of the applicant, with interest @ 18% p.a.*

*d) Cost of this application may kindly be provided;*

*e) any such other and further relief as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the present case;"*

3. The learned counsel for the applicant seeks time to move an appropriate application for certain amendments in the present OA. He submits that the claim of the applicant is squarely covered by the Calcutta bench of this Tribunal in OA No. 566/2007. He further submits that the respondents herein have implemented the directions of the Calcutta Bench of this Tribunal in respect of the applicants in OA No. 566/2007. It is further contended that the judgment dated 27.09.2017 in the OA No. 566/2007 is the subject matter of challenge before the Hon'ble High Court of Kolkata in WPCT No. 85/2010.

4. On perusal of the order dated 17.05.2010 of the Hon'ble High Court in WPCT



No. 85/2010, it transpires that the directions of this Tribunal in Calcutta Bench in OA No. 566/2007 have already been complied with by issuing memorandum dated 28.05.2010.

5. It is not disputed that the issue involved in the present OA is identical to the issue involved in the aforesaid OA No. 566/2007 decided by the Calcutta Bench of this Tribunal in order/judgment dated 27.09.2007 and such judgment of Calcutta Bench of this Tribunal is the subject matter of challenge in WPCT No. 85/2010.

6. Similar matters have been heard by this Bench in respect of *OA No.1123/1996 dated 18.10.2001 in the case of D.R. Sontakey & Anr. Vs. Union of India and Ors.* which was referred by the co-ordinate Bench of this Tribunal at Calcutta while passing orders and which decision of that Bench now lies before the Hon'ble High Court of Calcutta. Similar orders have also been passed in *OA No.728/2013 and OA No.47/2014 decided on 30.06.2015 in the case of Shri Madhusudan A. Shaligram Vs. Union of India &*



*Ors. and Shri K.H. Kartha Vs. Union of India & Ors.* In the two OAs above, the views of the Calcutta Bench and the pendency of the suit before the Hon'ble High Court of Calcutta was considered and reliefs were granted. This matter was taken to the Hon'ble High Court of Bombay in WP No.9100/2016 decided on 09.08.2016 in the case of *Union of India & Ors. Vs. K.H. Kartha* in which the pensioner who was identically placed with the present applicants was granted his legitimate pensionary dues and interest of 12% p.a. Was awarded on arrears of pensionary benefits. The matter was also further considered in OA No.162/2013 dated 28.08.2013 in *S.S. Dangi Vs. Union of India & Ors.* on identical lines and this was followed by the Jabalpur Bench in its OA No.1060/2016. Similar orders have also been passed by this Tribunal in OA No.2011.2019 dated 23.07.2019 according the same reliefs.

7. In this view of the matter, the OA is disposed of with directions that the parties in present OA shall also be bound by the



final order/judgment of the Hon'ble High Court, Calcutta in WPCT No.85/2010.

8. Considering that the respondents have implemented the directions of the Calcutta Bench of this Tribunal in the aforesaid OA No. 566/2007, the respondents are directed not to give effect to the impugned communications dated 11.12.2017 (Annexure A-1) and 13.11.2017 (Annexure A-2) until the final decision of the Hon'ble High Court, Kolkata and their decision in this regard shall depend upon the final outcome of the WPCT No.85/2010.

9. It is made clear that fixation of pension and other retiral benefits at the revised pay scale or the last pay drawn by the applicants at the time of their respective dates of retirement and the payment of arrears to them will however be subject to the final outcome of the pending WPTC No.85/2010 filed by the respondents against the Employee Union of CBWE before Hon'ble High Court of Calcutta. The respondent no.2 shall calculate the arrears as above and shall ensure its payment to the



applicant within eight weeks from the date of receipt of a certified copy of this order.

10. The Original Application is accordingly disposed. In the facts and circumstances of the case, the parties are directed to bear their respective costs.

*(R. Vijaykumar)*  
*Member (A)*

*dm.*

*JD*  
*24/02/2020*



