

IN THE CENTRAL ADMINISTRATION TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. No.1032/2001

This the 8th day of August, 2001

HON'BLE SHRI KULDIP SINGH, MEMBER (J)

Shri Uma Shankar Prasad Sinha
Executive Engineer (Retd) from the office
of Under Director General B.R. Seema Sadak Bhawan
R/o House No.47, Pocket GG-III, Vikas Puri,
New Delhi.

..... Applicant

(By Advocate: Shri B.B. Raval)

VERSUS

Union of India

Through

1. Secretary
Public grievances Directorate of Public
Grievances
Cabinet Secretariat, Sadar, Patel Bhawan,
Parliament Street, New Delhi.

2. Secretary
Ministry of Surface & Transport,
Border Development Board, B. Wing,
4th Floor, Sana Bhawan, New Delhi-1.

3. The Secretary
Ministry of Defence,
South Block,
New Delhi.

4. The Director General, Boarder Roads,
H.Q. DG BR, Seema Sadak Bhawan,
Ring Road, Delhi-Cantt-110010.

5. The Chief Controller of Defence Accounts
(Pension)
Allahabad (U.P.) 211014.

..... Respondents

(By Advocate: Shri S.K. Gupta.)

ORDER

Hon'ble Mr. Kuldip Singh, Member (J)

This is an OA filed by the applicant whereby
he has challenged the order dated 30.1.2001 issued by the
respondent No.1 rejecting the case of the applicant for
revision of his pension in accordance with the revised
scale of pay as per CCS (Revised Pay) Rules, 1997 which

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was made applicable w.e.f. 1.1.1996. 5

2. Facts, as alleged by the applicant in brief are that he had retired on attaining the age of superannuation on 31.12.1995. The applicant relinquished the charge of the office of respondent No.4 in the A/N on 31.12.1995 under FR 56(a) and was taken off the strength from duty w.e.f. 1.1.1996. The applicant was granted pensionary benefits w.e.f. 1.1.1996 under Rule 83(1) of the Pension Rules and he started getting pension w.e.f. 1.1.1996,. Thereafter in the year 1997 in accordance with the recommendations of the 5th Pay Commission the Central Civil Services (Revised Pay) Rules, 1997 were notified which were made applicable to him w.e.f. 1.1.1996. Since the applicant had retired w.e.f. 1.1.1996 as he became non-effective on the strength of the departmentt w.e.f. 1.1.1996 so he claims that he is entitled for revision of his pension and pensionary benefits including leave encashment etc. in accordance with the CCS (Revised Pay) Rules and for this purpose he has started correspondence with the respondents by submitting several representations but in vain and ultimately vide the impugned order dated 30.1.2001 his representation was rejected.

3. For challenging the impugned order the applicant claims that as per the law enunciated by the Full Bench of this Tribunal in case of Venkatram Rajaopalan and Another Vs. U.O.I. and Others in OA Nos. 459 and 460 of 1997 reported in 2000(1) ATJ page 1 which states that retirement from service on the last day of

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the month would mean severance of relationship of master and servant after office hours of the last day of the month itself. That means a person remains in Government service for about 17 hours (i.e. from 1.00 AM to 5.00 PM) on the date of his superannuation and ceases to be in such service for the remaining 7 hours of the day. Why then such an employee does not get retirement pension for the last day of superannuation because he was paid salary for that day. So a person cannot be deemed to be in service for one part of a day and out of service for the other part of the day. Thus he is continued to be in service till mid-night of that day and he should be deemed to have retired from service on the next day of attaining the age of superannuation, i.e., w.e.f. 1st day of the month following the last day of the month of superannuation so it is submitted that the impugned order should be quashed and the respondents should be directed to revise the pension and pensionary benefits of the applicant in accordance with the CCS (Revised Pay) Rules along with all consequential benefits with interest at the rate of 18% per annum.

4. The respondents have taken an objection that in view of the judgment of the Hon'ble Supreme Court in R. Viswan and Others Vs. U.O.I. & Others wherein it has been held that GREF is an integral part of the Armed Forces for the purposes of Article 33 of the Constitution of India. Accordingly, the President of India has been pleased to declare that GREF is an integral part of the Armed Forces of India vide order dated 14.8.85, Annexure R-1 so the counsel for the respondents submitted that this Tribunal has no jurisdiction. Even this Bench also

in a case of Kunju Krishnan Pillai Vs. UOI & Others, T-70 and T-724 of 1985 had held that GREF is an integral part of Armed Forces and the Tribunal has no jurisdiction.

5. I have heard the learned counsel for the parties and gone through the records of the case.

6. Before coming to the merits of the case it would be pertinent to mention that since the respondents have taken an objection with regard to the jurisdiction so that question has to be decided first. The learned counsel for the applicant referred to a judgment reported in AIR 1983 SC 608 particularly 665 wherein it has been held as under:-

"21. Subject to the provisions of any law for the time being in force relating to the regular Army or to any branch thereof, the Central Government may, by notification make rules restricting to such extent and in such manner as may be necessary the right of any person subject to this Act -

(a) to be a member of, or to be associated in any way with, any trade union or labour union, or any class of trade or labour unions, or any society, institution or association or any class of institution or associations:

(b) to attend or address any meeting or to take part in any demonstration organised by any body of persons for any political or other purposes:

(c) to communicate with the press or to publish or cause to be published any book, letter or other document.

7. After referring to the above, the counsel for the applicant submitted that this judgment supports the case of the applicant and according to this it cannot be

held that the Civilian employees of the GREF can be said to be a part of Armed Forces and the applicant has a right to approach this Tribunal for revision of his pension. This merely put some restriction on GREF employees as the employees remained to be a civilian employee.

8. On the contrary Shri S.K. Gupta appearing for the respondents referred to a letter 14.8.1985 Annexure R-1 whereby it has been informed to various Ministries that the President is pleased to declare that the GREF is an integral part of the Union of India. The counsel for the respondents also referred to Annexure R-2 which is an uncertified copy of an order passed by the Hon'ble Supreme Court wherein again it was held that the members of the GREF cannot come to the Tribunal.

9. Besides that the respondents also referred to a judgment in Writ Petition No. 1569/2000 of Lucknow Bench of the Allahabad High Court wherein again the petitioner who was an employee of GREF had gone against the order of CAT alleging that he was entitled to invoke the jurisdiction of the Central Administrative Tribunal but the Lucknow Bench of the Allahabad High Court had held that the GREF is an integral part of Armed Forces within the meaning of Article 33 of the Constitution of India and Writ Petition challenging the order of the Tribunal was dismissed. The Tribunal in the said case which was decided vide OA 309/97 had held that the employees of the GREF are not covered under the jurisdiction of the Tribunal. However, in response to this the counsel for the applicant has submitted that the

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Notification which was referred into by court in the the case of R. Viswan Vs. U.O.I. and Others only shows that certain restrictions could be replaced on GREF employees but they remain to be civilian employees and are still covered under the jurisdiction of the Tribunal and they can approach for redressal of their grievances. Moreover the counsel for the applicant submitted that the controlling authority is the Ministry of Shipping and Surface Transport so the applicant can legitimately approach the Tribunal.

Q 10. I have given my thoughtful consideration to the matter involved.

Q 11. To my mind the reliance placed upon by the applicant on a portion of judgment in the case of R. Viswan is a misplaced one particularly so after the judgment of R. Viswan (Supra), the President has specifically declared that GREF to be an integral part of the Armed Forces of India and so the question whether such type of employees can approach before Tribunal does not remain to be res intigra any more. Moreover the Tribunal at its Lucknow Bench as well as at Allahabad Bench in OA 1195/1993 have already held that the employees of the GREF are not covered under the jurisdiction of the Tribunal. Even Principal Bench in T-70/85 and T-724/1985 as already held that the GREF personnel are members of the Armed Forces of the Union of India under Section 2 (a) of the Administrative Tribunal At, does not apply.

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12. In view of these judgments I have no option but to hold that this OA is not maintainable before this Tribunal which is accordingly dismissed. However, the applicant is at liberty to approach the appropriate forum, if so advised. No costs.

Kuldeep Singh
(KULDIP SINGH)
MEMBER (JUDL)

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