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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

OA NO. 1694/2001

This the 11th day of August, 2003

HON'BLE SH. KULDIP SINGH, MEMBER (J)

Mool Chand K. Verma  
S/o Shri Khushi Ram Verma,  
Retd. Guard 'A',  
BOTAD JNC.

Presently:

R/o 183 Bau Abadi,  
Rewari (Haryana)

.... Applicant

(By Advocate Sh. B.S. Mainee)

Versus

Union of India, Through

1. The General Manager,  
Western Railway,  
Churchgate,  
Mumbai.

2. The Divisional Railway Manager,  
Western Railway, Bhavnagar.

... Respondents

(By Advocate: Sh. V.S.R. Krihsna)

O R D E R (ORAL)

By Sh. Kuldip Singh, Member (J)

Applicant has filed this OA seeking the following  
reliefs:

a) That this Hon'ble Tribunal may be pleased to allow this application and direct the respondents to recalculate the retirement benefits of the applicant, like pension, commutation of pension, gratuity, etc. by taking 75% of pay in lieu of running allowance instead of 55% and make payment within a fixed period.

b) That this Hon'ble Tribunal may be further pleased to direct the respondents to pay interest at the rate of 12% p.a. from the date when the payment was due as per the

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decision of the Hon'ble Tribunal till the date of payment.

2. The grievance of the applicant is that he was working as Guard 'A' at Botad Railway Junction of Western Railway under Bhavnagar Division. He has retired from that Division w.e.f. 1.4.86. After his retirement, a pension of Rs.984/- was fixed in respect of the applicant which was revised subsequently to Rs.1651/-. Applicant further alleges that as per Rule 2544 of the Indian Railway Establishment Code, the monthly average of running allowance drawn during the 365 days of running duty immediately preceding the date of continuous service limited to 75% of the other emoluments drawn during the same period is to be taken as an element for pension. However, respondents fixed the pension of the applicant by treating 55% of the pay as the element of running allowance.

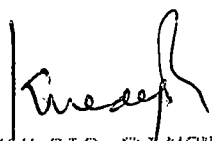
3. Thus, the aforesaid action of the respondents is illegal and is contrary to the Full Bench judgment of the Tribunal in terms of its judgment in the case of Sh. C.R.Rangadhamiah & ors. vs. Chairman, Railway Board, reported in ATJ 1994 (1) 305. An SLP was also filed before the Hon'ble Supreme Court which was also dismissed. Counsel for applicant further submitted that after this judgment Railway Board issued the circular dated 17.4.98 which is at Annexure A-2 and despite that the pension of the applicant has not been fixed in accordance with the judgment of C.R.Rangadhamiah and it is also not in accordance with the circular dated 17.4.98. It is also stated that the pension of the applicant be revised by taking 75% of pay against running allowance on an average basis and whatever the difference comes, an interest be paid thereof.

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4. Respondents who were contesting the OA stated that at the time of retirement of applicant his pension was Rs.984/- which was revised to Rs.1651/- and he also submits that the judgment of Hon'ble Supreme Court has been implemented in totality. However, respondents pleaded that there were certain mistakes in the calculation of the pension of the applicant and his pay was corrected at the time of revision of grant of 75% of allowance. His pension comes to Rs.1519/- whereas his pension has been fixed at Rs.1651/-. So his pension, therefore, has been revised.

5. However, it is stated that no show cause notice before revising the pension has been issued. As regards the application of the judgment of C.R.Rangadhamaiah, there is no dispute. Respondents also agreed that the same judgment applies to the case of the applicant and applicant has to be given benefit of 75% of running allowance on average basis but there appears to be some calculation errors on the basis of which the respondents have reduced the pension of the applicant without issuing show cause notice.

6. So in view of the same, I think this OA can be decided with the directions to the respondents to recalculate the pension of the applicant by giving him benefit of 75% of running allowance on average basis. But as regards the errors in the calculation are concerned, the same may be done after giving a show cause notice to the applicant. This exercise should be completed within a period of 2 months from the date of receipt of a copy of this order.

  
( KULDIP SINGH )  
Member (J)

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