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CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI.

OA-2140/2001

New Delhi this the 19th day of February, 2002.

Hon'ble Dr. A. Vedavalli, Member(J)

Sh. B.R. Agnihotri,
R/o 66 East End Enclave,
Delhi-92.

.... Applicant

(Applicant in person)

Versus

1. The Comptroller and Auditor General
of India, 10, Bahadur Shah Zafar Marg,
New Delhi-2.

2. Deptt. of Pension and Pensioners'
Welfare, Lok Nayak Bhavan,
New Delhi-3. Respondents

(through Sh. Madhav Panikar, Advocate)

ORDER (ORAL)

Hon'ble Dr. A. Vedavalli, Member(J)

The applicant B.R. Agnihotri, a retired officer, has filed this OA impugning the order of the respondents dated 26.03.2001 (Annexure A1) purported to have been passed in compliance of this Tribunal's directions in the order dated 09.02.2001 in OA-1083/2000. However, the applicant is not satisfied by the said order passed by the respondents and has impugned the same in this OA. He has sought the following reliefs:-

- "(a) In view of the facts mentioned in para 4 and position explained in para 5 above I respectfully pray that the C.Ar.G (Respondent I) may kindly be given categorical directions to update my pension after taking into account special pay of Rs.150/- without further delay.
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- (b) The Deptt. of Pension and Pensioners' Welfare (Respondent II) may be directed to roll back the clarification regarding treatment of special pay in para 1(2) of their OM dated 19.12.2000."

2. Heard the applicant in person and the learned counsel for the respondents Sh. Madhav Panikar. Pleadings and the material documents placed on record have been perused.

3. I have given my careful consideration to this matter.

The applicant in Para 5(A) of the OA has submitted, inter alia, that the Special Pay of Rs.150/- drawn by him at the time of his retirement was part of his basic pay and should be taken into account for fixation of notional pay on 1.1.1986.

It is seen that in Para-5(B) of the OA, the applicant has stated that in an identical case, an order of this Tribunal (Bombay Bench) in OA No.232/1989 was passed on 13.12.1993 in Rajaram Shankar Gawade Vs. U.O.I.- 1994(27)ATC 329. He submits that as per the said order, special pay sanctioned in lieu of separate higher scale should, in view of the provisions of FR-9(21)(a)(1), be treated as part of the basic pay and, therefore, taken into account for fixation of pay in the revised scale of pay on 1.1.1986. A copy of the said order is at Annex. A-5.

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4. The respondents in their reply dated 7.1.2002 have stated with reference to the contents of the aforesaid para-5(B) of the OA that the said judgement of the Tribunal Bombay Bench dated 13.12.1993 has been referred to the Ministry of Personnel, Public Grievances and Pensions (Department of Pension and Pensioners Welfare) for clarification vide their office U.O.No.3168/OE&Bills/Estt./105-2000 Vol.II dated 24.9.2001 and the reply is still awaited. Learned counsel for the respondents Sh. Panikar submits that as soon as reply is received from the Department of Personnel, the applicant's case will be examined in the light of the opinion of Deptt. of Personnel & Training and decision will be taken in this regard as expeditiously as possible.

5. In view of the above position, the OA is disposed of with the direction to the respondents to take a decision in the case of the applicant on merits within two months from the date of receipt of a copy of this order. The said decision which should be a detailed and reasoned one must be communicated to the applicant within a week's time after it was taken by the respondents. If any grievance still survives thereafter the applicant will be at liberty to approach this Tribunal again in fresh original proceedings, if so advised, in accordance with law. No costs.

A. Vedavalli
19/2/2002

(Dr. A. Vedavalli)
Member(J)