

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.2591/2001

(5)

Thursday, this the 10th day of January, 2002

Hon'ble Shri Govindan S. Tamai, Member (A)

K. Sridharan
Retired Scientist "E" (DIPAS)
F-549, Sarita Vihar
New Delhi - 110 044

...Applicant
(Applicant in person)

Versus

1. Union of India through Secretary
to the Department of Research & Development
Ministry of Defence
Room No.137/5, South Block
New Delhi - 11
2. Director, DIPAS
Lucknow Road, Timarpur
Delhi - 54

...Respondents

(By Advocate: Shri Bhasker Bhardwaj along with
Sr. Admn. Officer M.A. Mohinuddin)

O P P O R T U N I T Y (ORAL)

Heard Shri K. Sridharan, the applicant in person and Shri Bhasker Bhardwaj, learned counsel for the respondents. Shri M.A. Mohinuddin, Senior Administrative Officer of the respondents' office was also present.

2. The applicant, who was working with the Defence Institute of Physiology and Allied Sciences (DIPAS), Lucknow Road, Timarpur, Delhi under Defence Research & Development Organisation (DRDO), retired on superannuation on 30.11.1999, while drawing the basic pay of Rs.17,100/- in the pay scale of Rs.14300-400-18300/-. He was also in receipt of two additional increments in the said pay scale amounting to Rs 800/- granted vide order No.DRDO/85101-A/V CPC/MPD/DR&D dated 3.2.1999.

b2

(2)

However, while working out the pension, his basic pay was only taken as Rs.17100/- and pension of Rs. 8550/- was granted instead of Rs.8950/-. These additional increments were given as incentives to Scientists upto the grade of Scientists "F" after their normal pay fixed whereas for the Scientist at the higher grade, the special pay of Rs.2000/- was granted. These additional increments were correctly accepted by the Organization. These additional increments were brought in as a one time measure and were directed to be merged with pay as on 1.1.1996 and were available for grant of all allowances as also for the purpose of pension. The applicant also points out that these additional increments were sanctioned keeping in mind the request made by the Scientific Community for betterment of their emoluments, therefore, it meant that these increments/incentives were to have their consequential benefits as well. However, the applicant has not been given the benefit of these incentives by including the same in the basic pay but had interpreted letter dated 14.5.1999 in a manner causing loss to the individual concerned, which the applicant wants to be rectified. Hence this OA.

3. Shri Bhasker Bhardwaj, learned counsel for the respondents has stated that by issuing the letter of 14.5.1999, the earlier clarifications of 3.2.1999 were modified. The plea raised by the applicant is that since these incentives have come as a policy of the Govt. for rewarding the Scientists for their work and it is considered as a one time measure, there is no reason that the consequential benefits arising out of it should flow not to him.

(7)

4. Shri Bhasker Bhardwaj further argued that it is a case where the individual is challenging the fixation of pay with reference to 1996 and has come as late as in 2000. Therefore, his OA is hopelessly barred by limitation. Thereafter, he makes another plea that the applicant has not approached the organization for exhaustion of his departmental remedies before approaching this Tribunal. He says that the respondents shall examine the matter in accordance with the rules and instructions, if a direction is given by the Tribunal.

5. I have carefully considered the matter. The preliminary objection that the OA having been filed in September, 2001 relating to fixation of retirement pay in 1966, was hit by limitation, cannot be accepted as this matter involves fixation of pay and allowances, which is a continuous cause of action and is, therefore, protected by the decision of the Hon'ble Supreme Court in M.R.Gupta Versus Union of India, 1995 (5) SCALE 29. However, the respondents' objection that the applicant has not exhausted the departmental remedies has to be sustained.

6. On the merits, I find that the applicant has made some general observations in respect of a few scales of pay, which I feel gives the impression that he is agitating the matter as a public interest litigation. The same does not fall within the purview of the Tribunal's jurisdiction and accordingly, I do not intend to deal with them. I am confining myself to the issue in dispute as far as it concerns the applicant only. His plea is that the two additional increments granted to him

2

(4)

as a Scientist being ~~an~~ one time measure and meant for merger in the scale of pay was liable to be included in the computation of allowances and pension. Perusal of the letter No. DRDO/85101A/0/CPC/MPD/DR&D dated 3.2.1999 from the Department of Science & Technology makes it clear the two additional increments sanctioned to Scientists were meant to attract, retain, inspire and motivate the Scientists to give their best contributions. This would naturally mean that the attendant facilities also have to follow. Clarification issued by DCDA (R&D) by letter No. Pay/1/MH/R&D/Pay Fixation dated 26.4.1999 states that the additional increments are available "to those who are in service as on 1.1.1996 and continue thereafter, the additional increments will be merged with the pay fixed as on 1.1.1996. This will be a one time measure.... as on the pay so fixed". The clarification appears to cover the request of the applicant. However, a contrary stand is indicated in DRDO/85101-A/V-CPC//MPD dated 14.5.1999 which reads as under:-

"1 Two additional increments for Scientist 'C' to scientist 'E'
(Recruitees/Promotees)

- i) The additional increments are to be treated separately and not to be merged with the basic pay fixed under normal rules.
- ii) On recruitment/each promotion the pay will be fixed under normal rules without taking into account the additional increments. After such normal pay fixation, two additional increment will be granted each time in the respective pay scale.
- iii) Since the additional increments are not be merged with basic pay and will have to be treated separately and distinctly, there is no need to revise the pay already fixed on or after 1.1.96."

(5)

7. Some confusion has obviously been created in the minds of the implementing authority while reading the order dated 3.2.1999 along with the clarifications of 26.4.1999 and 14.5.1999. This, therefore, calls for re-examination. The respondents have fairly conceded that they would be prepared to examine the issue, if a representation is made by the applicant. The same, to my mind, is a fair proposition for all concerned.

(9)

8. In the above circumstances, this OA is disposed of with the directions that the applicants shall forward a detailed representation to the respondents, enclosing a copy each of this OA and this order. The respondents shall within 45 days from the date of such receipt examine and pass appropriate orders in accordance with law. The applicant is granted liberty to agitate the matter, if he is still aggrieved before this Tribunal. No order as to costs.

(Govindan S. Tampi)
Member (A)

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