

Central Administrative Tribunal, Principal Bench

Original Application No.1861 of 1999

New Delhi, this the 25th day of May, 2000

17

Hon'ble Smt.Lakshmi Swaminathan, Member(J)
Hon'ble Mr.V.K.Majotra, Member (A)

Shri Ganesh Lal Chaturvedi, S/o Late Dev
Baksh Chaturvedi, R/o House No.C-102, Siddha
Appts.,Patpar Ganj,Plot No.107 IP Extn.Delhi- Applicant

(By Advocate Ms.Anjana Prabhakar)

Versus

1. Union of India through the Secretary (E),
Railway Board, Rail Bhawan, New Delhi.
2. F.A. C.A.O. (Pension), Northern
Railways Headquarters New Delhi.
3. General Manager (Per.), Northern Railways
Headquarters, New Delhi. - Respondents

(By Advocate Shri P.M.Ahlawat)

O R D E R

By V.K.Majotra, Member(Admnv) -

The applicant has challenged Annexure-A fixing the revised pension of the applicant at the rate of Rs.6000/- per month vide PPO No.0178010008 of April,1999.

2. The applicant joined the Indian Railways in the year 1944 and retired on 30.6.1978 as Deputy Chief Mechanical Engineer (for short 'Dy.CME')/ Senior Divisional Mechanical Engineer (for short 'Sr.DME'). At the time of his retirement he drew salary at the rate of Rs.1900/- per month in the scale of Rs.1500-2000. The applicant has stated that at the time of his retirement there was only one scale for Junior Administrative Grade officers as Rs.1500-2000. However, there are two grades for the same post of Dy.CME/ Sr.DME after the 5th Pay Commission, one carrying scale of Rs.12000-16000 initially and the second Rs.14300-18300 at the selection

grade after completion of 13 years of service and clearance by respondent no.2 i.e the Railway Board. The applicant's pension has been revised from Rs.5886/- to Rs.6000/-. According to the applicant it has been fixed wrongfully and arbitrarily. He claimed that his revised pension should have been Rs.7150/- per month with effect ^{His representations dated 29.5.1999} from 1.1.1996. ¹⁵ and 28th June, 1999 ~~which~~ have remained unrepplied according to the applicant. The applicant has sought revision in his pension in the scale of Rs[14300-18300 i.e. ~~at~~ Rs.7150/- per month with effect from 1.1.1996 with arrears as per the recommendations of the 5th Pay Commission.

3. As per the counter of the respondents as the applicant had retired from service in June, 1978 he was governed by the scales admissible as per the recommendations of the 3rd Pay Commission. As he is not governed by the pay scales admissible under the 4th Pay Commission which came into force with effect from 1.1.1986, he cannot be accorded the pension on the basis of the non-functional selection grade demanded by him. Applicant's representations dated 29.5.99 and 28.6.99 were considered by the competent authority and decision thereon conveyed to the applicant vide Railway Board's letter dated 16.12.1999 (Annexure-R-1). The respondents have contended that the non-functional selection grade came into being with effect from 1.1.1986 as a result of the recommendations of the 4th Pay Commission. This grade did not exist during the service period of the applicant. Mere completion of 13 years of Group 'A' service would not entitle him to a scale of pay which

did not exist during his service period. The applicant's effort to equate his case with those of the serving officers who are governed by the recommendations of the 4th Pay Commission is untenable. The respondents have refuted applicant's allegation regarding fixation of his pension as wrong, arbitrary and unreasonable. The applicant has filed a rejoinder as well.

4. The learned counsel of both parties were heard and the material available before us carefully considered.

5. It has been pleaded on behalf of the applicant that he had been promoted to the JAG on completion of 13 years of Class 'A' service. The promotional post of Dy.CME/ Sr.DME was held by him till 30.6.1978. It is maintained by the applicant's counsel that the last post held by the applicant is equal in responsibility and powers to the post carrying scale of Rs.14300-18300 per month with effect from 1.1.1996 as per the recommendations of the 5th Pay Commission. Therefore, applicant's pension should be fixed at 50% of the initial pay of Rs.14300/- i.e. at the rate of Rs.7150/- per month with effect from 1.1.1996.

6. We have gone through the relevant circulars on the subject as follows :-(i) Northern Railway's letter no.727/E/605/E1A dated 25.4.2000, (ii) Department of Pension and Pensioners Welfare F.No.45/86/97,P&W(A) Part III dated 10.2.1998 read with OMs of even no. dated 13.5.1998, 24.7.1998 and 30.9.1998. The former letter relates to the non-functional selection grade to Group 'A' Railway services which was introduced with effect

from 1.1.1986 as per the recommendations of the 4th Pay Commission. On the basis of the procedure laid down in the DOP&T's OM dated 9.10.1989 it has been clarified that the application of the non-functional selection grade to Group 'A' Railway services will have prospective effect with effect from 1.1.1986. As per the latter circular of the Department of Pension and Pensioners Welfare, on the basis of the recommendations of the 5th Pay Commission the pension/ family pension of all those Government servants who were retired prior to 1.1.1986 and were in receipt of pension as on 1.1.1986 will be fixed ^{on} notional basis on the revised scale of pay for the post held by the pensioner at the time of his retirement. The above instructions do not envisage application of non-functional selection grade which came into existence with effect from 1.1.1986 as a result of the recommendations of the 4th Pay Commission to those who had retired before 1.1.1986. Their pension has to be revised on the basis of the revised scales related to the scales which existed before 1.1.1986. If a scale came into existence after 1.1.1986 the pay of a retiree has not to be fixed on a notional basis if he was not serving at the time when the scale was introduced and, therefore, his pension can also not be related to any such notional fixation. We find that the respondents have considered the representations of the applicant carefully as per the Government's instructions on the subject and revised his pension as per Annexure-A judiciously.

7. Having regard to the above discussion, we do not find any fault with the action of the respondents in

21
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fixing the revised pension of the applicant at Rs.6000/- per month vide Annexure-A. The OA is, therefore, dismissed being devoid of merit. No costs.

V.K.Majotra

(V.K.Majotra)
Member (A)

Lakshmi Swaminathan

(Smt.Lakshmi Swaminathan)
Member (J)

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