

Central Administrative Tribunal, Principal Bench

O.A. No. 461 of 1999

New Delhi this the 26th day of October, 1999

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

1. J.N. Mishra
F-2645, Netaji Nagar,
New Delhi-110 023.
2. M.S. Solanki
E0457, Shyam Vihar,
Goela Dairy Road,
Najafgarh, New Delhi-43.
3. M.S. Narula
1384, Sector-29,
H.B. Colony, Faridabad.
4. K.D. Mitha
Gali No.3, Gandhi Colony,
Hansi District Hissar,
Haryana.

...Applicants

By Advocate Shri S.K. Sinha.

Versus

1. Union of India through the Cabinet Secretary,
Government of India, Rashtrapati Bhawan Annexe,
New Delhi.
2. The Director, Aviation Research Centre
Directorate General of Security, Cabinet
Secretariat, Government of India,
East Block-V,
R.K. Puram,
New Delhi-110001.
3. Director of Accounts, Office of the Director
of Accounts, Cabinet Secretariat, East Block-IX,
Level-VII, R.K. Puram,
New Delhi-110 001.

..Respondents

By Advocate, Shri R.P. Aggarwal.

ORDER

This O.A. has been filed by 4 applicants who have challenged the pay fixation done by the department where they were re-employed after having retired from Indian Navy. It is alleged that the applicants were in receipt of minimum pension of Rs.375/- per month prior to

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January, 1996 which was increased to Rs.1275/- from 1.1.1996. The respondents have recovered a sum of Rs.900/- per month from 1.1.1996 from their salary till their retirement and this recovery has been effected in gross violation of the judgment and orders of almost all the superior courts. Earlier also the respondents had wrongly fixed the pay of the petitioners and they had to file an OA before this Tribunal and the respondents were directed to re-fix their pay. 9

2. It was further pleaded that the action of the respondents in making illegal recovery without any show cause notice was illegal, arbitrary and the respondents should be directed to refund the same to the applicants.

3. The applicants have further prayed that the respondents be directed to refund the illegal recoveries and they should be further directed to pay interest at the rate of 18%.

4. The respondents in their counter-affidavit have stated that the applicants had been reemployed after they had retired from Indian Navy and their pay was fixed in the revised scale effective from 1.1.1996 under CCS (RP) Rules, 1997 in accordance with the provisions of Department of Personnel and Training OMs dated 3.12.1997 and 19.11.1997 which provides that while fixing the pay of the reemployed pensioners w.e.f. 1.1.1996 an amount equivalent to the revised pension (excluding the ignorable portion of pension) effective from 1.1.1996 shall be deducted from the pay fixed w.e.f. 1.1.1996. According to this OM, certain amount was allowed to be ignored while fixing the pay w.e.f. 1.1.1986. However, on re-examining the case in

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consultation with the DOPT, it was decided to reimburse the amounts recovered from the applicants since all of them belong to Group 'B' and thus their pay had been revised in the revised scale w.e.f. 1.1.1996 ignoring the enhanced pension effective from 1.1.1996 and thus the amount recovered so, had been refunded against receipts. So they prayed that the OA be dismissed.

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5. I have heard the learned counsel for the parties and have perused the records.

6. As far as the refund of amount is concerned, it is stated at the bar by both the counsel that there is no dispute about the refund of amount which has already been paid to the applicants against proper receipts.

7. However, the learned counsel for the applicant prays that they are entitled to interest so the respondents be directed to pay the interest on the amount which they had earlier recovered and which has been reimbursed later on.

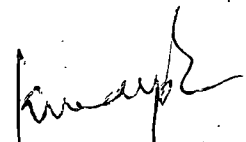
8. In reply to this, the learned counsel for the respondents submitted that after the report of the 5th Central Pay Commission, a circular dated 14.11.1997 based on certain judgment, the respondents had been making consultation with the DOPT and it is only in the last week of November, 1998 that the matter was settled and decision was taken to reimburse the amount recovered from them. So it is stated that there is no administrative/wilful delay on the part of the respondents to refund the amount which has been recovered on account of wrong fixation of pay and immediately on reexamining the same in the light of the

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clarification received from the DOPT, the cheques in the name of the individual applicants were sent to them by special messenger. As such the counsel for the respondents submitted that there is no mala fide intention or wilful delay on the part of the respondents and they are not liable to pay any interest.

9. To my mind there is no inordinate delay in making the payments on the part of the respondents and the explanation given by the respondents which is supported by the documents submitted during the arguments shows that certain correspondence were going on between the department and DOPT and after receipt of the clarifications from DOPT, respondents have taken immediate steps to refund the amount which shows that there is no inordinate delay. As such, I am of the considered opinion that applicants are not entitled to any interest.

10. In view of the above, OA fails and is dismissed. No costs.


(KULDIP SINGH)
MEMBER(J)

Rakesh