

(12)

Central Administrative Tribunal  
Principal Bench

O.A. 2424/98

New Delhi this the 12 th day of October, 1999

**Hon'ble Smt. Lakshmi Swaminathan, Member(J).**

R.L. Nagpal,  
S/o late Shri Hukam Chand,  
R/o 385, Vasant Kunj, Sector 'A',  
Pkt 'C',  
New Delhi. Applicant.

By Advocate Shri P.M. Hinduja.

Versus

Union of India through

1. The Secretary to the Govt. of India,  
Ministry of Defence, South Block,  
New Delhi.
2. Director General of Ordnance,  
MGO's Branch, (OS-8C)i), Army HQ,  
South Block,  
New Delhi. Respondents.

By Advocate Mrs. Meera Chhibber.

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicant has filed this application praying for release of all arrears of pro-rata pensionary benefits for the period of his service from 17.4.1944 to 31.7.1963 plus revised pension amount in accordance with the respondents' sanction order dated 9.9.1997. Although in Paragraph 1 of the O.A. the applicant has stated that this Original Application has been filed against the respondents' order dated 9.9.1997, at the time of hearing Shri Hinduja, learned counsel, had very strongly urged that the sanction order is legal and valid and what the applicant wants is for a direction to the respondents to comply with the order immediately and revise his pensionary amounts with arrears. He has also submitted written arguments together with enclosures which he submits should be read as part of the O.A.

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2. The respondents in their reply have submitted that the sanction letter relied upon by the applicant has been cancelled because it was issued due to error by order dated 17.11.1998. According to them, they have intimated this to the applicant by their letter dated 21.2.1999. Mrs. Meera Chhibber, learned counsel, has submitted that the applicant, in spite of the information having been given, has not cared to amend the O.A. so as to challenge the later order cancelling the sanction order and accordingly the O.A. is not maintainable and has prayed that the same should be dismissed at the admission stage itself.

3. Shri Hinduja, learned counsel, has very vehemently submitted that there is absolutely no need to impugn the order cancelling the earlier letter dated 9.9.1997, on which he relies upon. He submits that the respondents cannot cancel the order and it is also not necessary for him to challenge the same.

4. I have carefully perused the pleadings on record and the written submissions made on behalf of the applicant. The sanction order on which the applicant relies upon has been subsequently cancelled by the competent authority, on the ground that the earlier order was passed erroneously. In the circumstances of the case, since the subsequent cancellation letter issued by the respondents on 21.2.1999, for whatever reasons, has not been challenged by the applicant in this O.A., it is not possible to direct the respondents to release the pro-rata pensionary benefits to the applicant, as prayed for, based on that very earlier letter. In the facts of the case,

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this O.A. is not maintainable and is accordingly dismissed,  
with liberty to the applicant to pursue his remedy in  
accordance with law.

*Lakshmi Swaminathan*

(Smt. Lakshmi Swaminathan)  
Member(J)

'SRD'