

(4)

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A.No.548/98

New Delhi

Decided on

25th JANUARY 1999

HON'BLE MR.S.R.ADIGE, VICE CHAIRMAN (A).

K.P. Agarwal,
S/o Late Shri Babu Lal,
R/o A-14, Jai Shiv Apartments,
C-2, West Enclave,
Pitampura,
Delhi -034.

..... Applicant

(By Advocate: Shri Sumant Bhardwaj)

Versus

Union of India
through

Director General of Audit,
Central Revenues,
New Delhi -002

.... Respondent.

(By Advocate: Shri M.K.Gupta).

ORDER

HON'BLE MR.S.R.ADIGE, VICE CHAIRMAN (A).

Applicant impugns respondents' order dated 10/23.9.97 (Annexure-A1) and seeks restoration of commuted value of pension w.e.f. 1.4.85, together with arrears and costs.

2. Applicant who joined the office of DG A, CR on 9.12.55 worked there upto 25.2.65 as Stenographer after which he went on deputation to Cement Corporation of India. On 1.2.68 he sought his permanent absorption in CCI under GOI order dated 16.6.67 and resigned from the post of Stenographer w.e.f. 1.2.68. His resignation was accepted by respondents vide letter dated 4.4.68 (Annexure-R1). Respondents informed applicant that pro rata pension was admissible and payable to him w.e.f. 9.12.85 vide letter dated 11.7.74 (Annexure-R11). Meanwhile

on 9.12.86 the Hon'ble Supreme Court in the case of Common Cause A Registered Society & Ors. Vs. UOI & Ors. directed GOI to restore one third of commuted value of pension in regard to civilian employees at the age of 70 years or after 15 years from the date of retirement whichever is later w.e.f. 1.4.85 (Annexure-AIII). These orders were implemented by GOI vide OPAR's OM dated 5.3.87 (Annexure-R IV). On 2.5.89, payment of prorata pension was made to applicant (Annexure-R V), and on 30.9.96 by OM of aforesaid date respondents decided to extend the benefit of restoration of commuted pension to all Govt. servants who had been absorbed in PSUs/ Autonomous bodies, notwithstanding the fact that having commuted their full pension they were not in receipt of monthly pension (Annexure-R-VI).

3. The short question for adjudication is whether the 15 years period for restoration of pension is to be calculated from applicant's deemed date of retirement i.e. 1.2.68 as claimed by him or from 2.5.89 which was the date he received the commuted value of pension.

4. I have heard both sides.

5. Under Govt. of India decision No.3 at page 244 of CCS(Pension) Rules 14th edition 1998 by Muthuswamy & Brinda captioned 'How to reckon the period of 15 years for restoration of commuted portion of pension, it has been made clear that it would not be correct to reckon the 15 year period

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for restoration from the date of retirement, except in cases where commutation of pension has been simultaneous with retirement. These decisions of GOI have been taken into account and have been issued after the Hon'ble Supreme Court's judgment in the Common Cause case (supra), relied upon by applicant.

6. As receipt of commuted value of pension in applicant's case (2.5.89) is not simultaneous with his deemed date of retirement (1.2.68), the impugned order dated 10/23.9.97 is fully in accordance with Govt. instructions and nothing contained in respondents' OMs dated 5.3.87 and 30.9.96 or indeed in the Hon'ble Supreme Court's judgment in the Common Cause's case (supra) warrants any different view.

7. The OA is dismissed. No costs.

S. R. Adige
(S. R. ADIGE)
VICE CHAIRMAN (A).

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