CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

RAs 297/95, 292/95 & 294/95 in
OAs 2263/94, 2264/94 and 2265/94

New Delhi, this 14th day of November, 1995

Hon'ble Shri B.K. Singh, Member(A)

1. Shri Brahm Singh (RA 297/95)
2. Shri J.C. Sharma (RA 292/95)
3. Shri Hari Chand (RA 294/95)

all working in Cabinet Secretariat
South Block, New Delhi .. Applicants

Shri V.P. Sharma, Advocate

Vs.

Union of India, through

1. Secretary
   Cabinet Secretariat
   South Block, New Delhi

2. The Joint Secretary(Pers)
   Cabinet Secretariat
   South Block, New Delhi .. Respondents

ORDER (by circulation)

In all the three RAs, the same facts and issues are involved and accordingly these are being disposed of by a common order.

2. The entire issue revolves on fixation of pay on re-employment. The rule position is very clear. The OAs were disposed of on the basis of the rule position and the various OMs issued by the Deptt. of Personnel & Training, Min. of Personnel, PG & Pensions, Govt. of India. The applicants were allowed to draw liberalised pension and in such a situation their pay was to be fixed at the bottom of the pay scale. They were repeatedly asked by the respondents to exercise their option regarding fixation of their pay. It is admitted that none of the three review applicants responded to the option invited from them and they kept mum about their pay fixation.

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The rule position is that after one draws liberalised pension, he is to be fixed at the bottom of the scale on re-employment in the civil department of Govt. of India. He will not be entitled to draw increments for past service.

3. The applicants have drawn liberalised pension and also were given increments for past service to which they were not entitled. They deliberately kept quiet about wrong fixation of pay. Ultimately, when this was discovered in their cases, orders regarding recovery of excess payments drawn by them were issued and the OAs in all the three cases were decided for non-exercise of option deliberately and for drawing higher pay than was admissible to them. This being so, the action of the respondents was held valid in recovering the excess payment made to them.

4. The Tribunal is not vested with any inherent power of review. It exercises that power under Order 47, Rule 1 of the CPC which permits review if there is (1) discovery of a new and important piece of evidence, which inspite of due diligence was not available with the review applicant at the time of hearing or when the order was made; (2) an error apparent on the face of the record; or (3) any other analogous ground. None of these ingredients are present in the three RAs filed.

5. The two judgements of the Hon'ble apex court are not relevant. One deals with validity of 1st August of every year as a cut off date for IAS and Civil Service Examination and the second deals with non-admissibility of DA relief on pension to re-employed pensioners including ex-servicemen. It does not deal with pay fixation at all., When an ex-serviceman joins a civilian establishment. Thus these judgements have no

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relevance for the issue in question and accordingly, the review applications have no merit and are summarily rejected under order 47, Rule 4(1) of the CPC.

(B.K. Singh)
Member(A)

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