

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

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OA. No.280 of 1995

Dated New Delhi, this 22nd day of January, 1997.

HON'BLE MR JUSTICE B. C. SAKSENA, ACTING CHAIRMAN
HON'BLE MR K. MUTHUKUMAR, MEMBER (A)

R. D. Agrawal
R/o 92/9th Avenue
Patparganj
DELHI-92.

... Applicant

By Advocate: Shri P. I. Oommen

versus

Union of Inida, through

1. The Secretary
Ministry of Finance
Department of Revenue
North Block
NEW DELHI.
 2. Zonal Accounts Officer (CBDT)
Incometax
Office of the Commissioner of Incometax
Ayakar Bhawan, Bhainsali Ground
MEERUT.
 3. The Principal Chief Controller of Accounts
Central Board of Direct Taxes
9th Floor, Loknayak Bhawan
Khan Market
NEW DELHI..
 4. The Commissioner of Incometax
Ayakar Bhawan, Bhainsali Ground
MEERUT.
- ... Respondents
- By Advocate: Shri V. P. Uppal

O R D E R (Oral)

Mr Justice B. C. Saxena, Acting Chairman

We have heard the learned for the parties.
The applicant through this OA seeks the following
reliefs:-

" (a) to authorise payment to the applicant
a lumpsum amount of Rs.46,442/- based on commutation
value expressed in commutation Table of Values,
based on 1/3 of commuted pension i.e. Rs.370/-.

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(b) to pay the balance amount of Rs.13,008/- after deducting the payment of Rs.33,434/- already paid.

(c) to correct the Pension Payment Order incorporating the correct amount and show the details.

(d) to pay interest @18% till the full arrears are paid to the applicant within a reasonable time that may be decided by this Hon'ble Tribunal..."

2. The applicant retired on 31.12.1983. While in service a departmental enquiry had been initiated against him which was finalised by order dated 20.4.1992 whereby a penalty of a cut of 25% in the pension admissible to the applicant for a period of five years had been imposed. The applicant challenged the said order of penalty as also some other orders through OA.No.2062/93. The said OA was finally decided by a Division Bench on 24.11.1995. The OA was dismissed and thus the penalty had been upheld. The applicant through this OA, as indicated herein above, disputes the lump sum amount paid to him. Instead of Rs.33,434/- as paid by the authorities, the applicant claims that he was entitled to a lump sum of Rs.46,442/-. The authorities calculated the commuted value of pension almost in identical terms. The applicant in his various paragraphs of the OA as also in the reliefs, has indicated that one-third of the commuted pension would be Rs.370/-. The respondents


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have also calculated one-third of commuted value of pension as Rs.370/-. The learned counsel for the applicant submits that the lump sum amount calculated by the respondents is factually incorrect. It should have been calculated on the basis from the date of the applicant's next birth date after his retirement. The learned counsel for the applicant, however, does not seem to be conscious of the circumstance that the departmental enquiry had been instituted and was continued against the applicant after his retirement. Rule 4 of the CCS (Commutation of Pension), Rules, 1981 envisages restriction on commutation of pension in respect of a Government servant against whom departmental or judicial proceedings as referred to in Rule 9 of the Pension Rules, have been instituted before the date of his retirement, shall not be eligible to commute a fraction of his provisional pension authorised under Rule 69 of the Pension Rules or the pension, as the case may be, during the pendency of such proceedings. Rule 69 of the Pension Rules again stipulates that where a departmental or judicial proceedings are pending, only a provisional pension would be given. Under Rule 4 of the CCS (Commutation of Pension) Rules, 1981, therefore, the applicant was not eligible to commutation of his pension. Under Rule 12 of the said CCS (Commutation of Pension)

Rules, the eligibility given as per sub rule (v) is only on finalisation of departmental or judicial proceedings referred to in Rule 9 of the Pension Rules and issue of final orders thereon.

3. The authorities have worked out the full pension which was admissible to the applicant on the date of completion of final order after the departmental proceedings and on that basis have also worked out the commuted value of pension. The basic pension of the applicant, as per Annexure-6, has been calculated as Rs.1110/- and the commuted value of one-third of the pension as Rs.370. There is no disagreement of the parties in regard to the calculation of one-third commuted value of pension.

In the circumstances, we are not persuaded to hold that the orders passed for commutation of pension and calculation, and grant of lump sum to the applicant thereof merits any interference at our end. In view of the above, the OA lacks merit and is accordingly dismissed. No costs.


(K. Muthukumar)
Member(A)


(B. C. Saksena)
Acting Chairman

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