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Central Administrative Tribunal, Principal Bench

Original Application No. 1866 of 1996
M.A. No. 2582/99

New Delhi, this the 21st day of March, 2000

Hon'ble Mr. S. R. Adige, Vice Chairman(A)
Hon'ble Mr. Kuldip Singh, Member (J)

Shri P.L. Taneja
W/o late Shri Parsotam Lal
R/o A-25, Shivaji Colony,
Meerut Cantt. 250001.

- Applicant

(Appeared in person)

Versus

1. Govt. of India,
through Secretary,
Ministry of Defence,
New Delhi-110 011.

2. E-IN-C's Branch,
Kashmir House,
New Delhi-110 011.

- Respondents

(Represented By - Shri R.C. Mehta)

O R D E R (ORAL)

By Hon'ble Mr. S. R. Adige, Vice Chairman(A)

1. Applicant seeks direction to respondents to review his pay under CSS (Revision of Pay) Rules, 1960 as follows:

"(a) in the grade of Supdt. (E/M) Gde. I Incharge sub-division at Rs. 525.00 pm in the scale of Rs. 450-25-575 w.e.f. 5.10.59 with DNI on 5.10.60;

(b) in the grade of AEE (E/M) at Rs. 570.00 pm w.e.f. 27.12.60 with DNI on 27.12.61 in the scale of Rs. 400-25-450-30-600-35-670-EB-35-950.00."

2. He also seeks revision of pensionary benefits on the basis of last pay drawn consequent to pay revision as above together with arrears.

3. A perusal of respondents' reply makes it clear

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that none of the grounds taken by applicant in support of his claim in the O.A. have been controverted by respondents on merits. Their only defence is that O.A. is barred by limitation under Section 21 A.T. Act, and that the applicant has not been residing within the territorial jurisdiction of the Principal Bench. Indeed from the order-sheet dated 6.6.97, we note that respondents counsel had sought some time to file an additional affidavit on the merits of the case, which had been allowed, but despite the passage of nearly 3 years since then, no additional affidavit has been filed.

4. In so far as the question of jurisdiction is concerned, we are satisfied that the applicant, a Govt. pensioner, who is approximately 85 years of age and who argued his case in person, is presently residing in Delhi, and it is indeed on that basis that this OA stood admitted by order dated 19.2.97. Hence this objection is rejected.

5. In so far as the objection of limitation is concerned, we note that by the Tribunal's order dated 19.2.97, this objection has also been considered in detail and rejected. While doing so, the Hon'ble Supreme Court's ruling in M.R. Gupta vs. Union of India and ors., 1995 (31) ATC 186 has been quoted extensively.

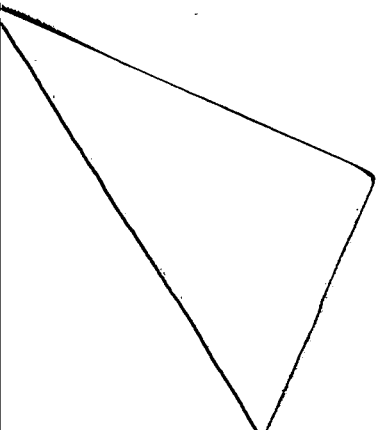
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6. As mentioned above, respondents in their reply have not specifically controverted any of the grounds taken by applicant as regards the merits of his claim, despite being granted sufficient opportunity to do so. In so far as respondents objection on grounds of territorial jurisdiction is concerned, we note that the O.A. already stands admitted, and in so far as the question of limitation is concerned, we find that the Tribunal in its order dated 19.2.97 has quoted extensively from M.R. Gupta's case (supra) wherein it has been held that where the pay fixation is not in accordance with rules, it gives rise to a recurring cause of action and under the circumstances, the bar of limitation would not apply.

7. As none of the grounds taken by the applicant have been controverted by respondents in their reply on merits and as the preliminary objections raised by respondents in regard to jurisdiction as well as limitation stand rejected in the light of the foregoing discussion, we allow the O.A. in the peculiar facts and circumstances of this case. We direct respondents to refix applicant's pay as prayed for in accordance with (a) and (b) of para 1 above, and also grant him arrears consequent to such refixation of pay. Applicant will also be entitled to revised pensionary benefits together with arrears on the basis of last pay drawn consequent upon his pay revision as directed above. These

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directions should be implemented within three months
from the date of receipt of a copy of this order.

8. O.A.No.1866/99 together with M.A.No.2582/99
stand disposed of accordingly. No costs.


(Kuldeep Singh)
Member(J)


(S.R. Adige)
Vice Chairman(A)

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