

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. 1120/97
with
O.A. 2777/97

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New Delhi this the 15th day of May, 2000

HON'BLE SHRI S.R. ADIGE, VICE CHAIRMAN (A).
HON'BLE SMT. LAKSHMI SWAMINATHAN, MEMBER (J).

O.A.1120/97

Amal Kanti Kanjilal
Block No. 16, Flat No. T-7,
Caltutta-700047.

By Advocate Shri G.S. Lobana.

Versus

1. Union of India through
Secretary,
Ministry of Finance,
Department of Expenditure,
Govt. of India,
New Delhi-1.
2. Secretary,
Ministry of Personnel,
Public Grievance and Pension,
Department of Pension &
Pension Welfare, Lok Nayak Bhawan,
Khan Market,
New Delhi-3. Respondents.

By Advocate S/Shri. K.C.D. Gangwani, R.R. Bharti and V.K. Rao.

O.A. 2777/97

1. Om Parkash Jasuja,
D-28, Sector 40,
Noida-201301 (UP).
2. Harjinder Singh Sachdeva,
235-C, MIG Flats,
Rajouri Garden,
New Delhi-110 027.
3. A.N. Ahuja,
460, Vikas Kunj, Vikas Puri,
New Delhi-110 048.
4. Kishan Lal Madan,
623/23, DLF Colony,
Rohtak-124001.
5. V.N. Sawhney,
98-C, Pocket A,
Dilshad Garden,
New Delhi-110 095.

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6. M.P. Sharma,
D-214, Sector 55,
Noida (UP).
MEMBERS OF BHARAT PENSIONERS' SAMAJ

7. Bharat Pensioners' Samaj,
(Regd. No. 4987/60),
PO Box No. 3303,
Jangpura PO,
New Delhi-110 014.
through Shyam Sunder
Secretary - General
... Applicants.

By Advocate Shri G.S. Lobana.

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Versus

1. Union of India, through
Secretary,

(i) Ministry of Personnel,
Public Grievances,
Pensions & Pensioners' Welfare,
North Block,
New Delhi.

(ii) Chairman,
Telecom Commission,
Ministry of Posts & Telecommunications,
Department of Telecommunications,
Sanchar Bhawan,
New Delhi-110 001.

2. Chief General Manager,
Mahanagar Telephone Nigam Limited,
Khurshid Lal Bhawan,
New Delhi-110 050.

3. Chief General Manager,
(Maintenance - Telecommunication),
Northern Telecom Region,
Kidwai Bhawan, Janpath,
New Delhi-110 050.

4. Commissioner, Central Excise,
(New Delhi-I),
Central Revenue Bldg.,
New Delhi-110 023.

... Respondents .

By Advocates S/Shri K.C.D. Gangwani, R.R. Bharti and V.K. Rao.

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

The aforesaid two applications raise similar issues and
were being taken up together during arguments and hence are
being disposed of by a common order.

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2. We have perused the pleadings and considered the submissions made by the learned counsel for the parties.

3. The applicants in O.A. 2777/97 have challenged the action of the respondents in giving the cut off date in the impugned order dated 14.7.1995 (Annexure A-I) linking the Dearness Allowance (DA) to Average All India Consumer Price Index 1201.66 as on 1.7.1993. These issues were raised in M.M. Mathur & Ors. Vs. Union of India & Ors. (O.A.2232/95, O.A.1341/97 and O.A.2241/95) which were disposed of by the Tribunal's order dated 25.1.2000 (copy placed on record). This order has been relied upon by the respondents. Shri G.S. Lobana, learned counsel for the applicants, had submitted that he would make his written submissions within one week, which time was granted to explain as to how the present cases are distinguishable from M.M. Mathur's case (supra). Learned counsel has, however, not submitted any written submissions nor have the same been received from the learned counsel for the respondents.

4. The applicants have submitted that they have retired between the period from 1.7.1993 and 31.3.1995 and have been denied the revision of retiral benefits as per the impugned order. They have challenged the cut off date 1.4.1995. They have relied on the judgements of the Punjab and Haryana High Court in Kartar Singh & Ors. Vs. State of Punjab and Haryana (CWP 16439/93) dated 18.9.1997. In this case, following the judgements in Shamsher Singh & Ors. Vs. State of Punjab & Ors. (CWP 6863/86), decided on 18.4.1988 and Dr. Asa Singh Vs. State of Punjab (CWP 14763/90), decided on 22.4.1991, it had been held that the imposition of a cut off date was bad and that all State Governments

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employees were to be treated alike irrespective of the fact whether they had retired before 31.3.1985 or after that date. Shri G.S. Lobana, learned counsel for the applicants has also submitted that the SLP filed against these judgements of Punjab and Haryana High Court had also been dismissed. However, these cases will not assist the applicants in the present set of facts because the grievance of the applicants before us is to link the DA to AICP index 1201.66 as on 1.7.1993.

5. The issues raised in the present O.As have been dealt with in Tribunal's order in M.M. Mathur & Ors. (supra) dated 25.1.2000 which had been given by the same DB. In those cases, the learned counsel had also submitted that the cut off date 1.4.1995 adopted by the respondents is arbitrary date which has no nexus to the objective sought to be achieved which is also the contention of the applicants in the present cases. In the present O.As, the applicants have referred to O.M. dated 14.7.1995 whereby DA was linked to AICP Index 1201.66 as on 1.4.1995 which, therefore, raises same facts and issues as raised in M.M. Mathur's case (supra). In that order, we had dealt with the question of choosing the cut off date of 1.4.1995 and had come to the conclusion for the reasons given therein that the cut off date cannot be held to be arbitrary and, therefore, there was no justification to interfere in the matter. Needless to say, the impugned cut off date in the present O.As have to be seen in the context of the O.M. dated 14.7.1995. Following the judgements of the Supreme Court and of the Tribunal mentioned in Tribunal's order dated 25.1.2000, O.A. 2232/95 with connected cases, were

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dismissed. In the facts and circumstances of the case, we agree with the submissions made by the learned counsel for the respondents that the reasoning in the order dated 25.1.2000 in the other cases is fully applicable to the present cases also.

7. In the result, for the reasons given above, O.A.1120/97 and O.A. 2777/97 are dismissed. No order as to costs.

8. Let a copy of this order be also kept in O.A. 2777/97.

(SMT. LAKSHMI SWAMINATHAN) (S.R. ADIGE)
MEMBER(J) VICE CHAIRMAN (A)

'SRD'

Bimal Deuri

Court Officer
Central Administrative Tribunal
P.W.D. Bhawan, New Delhi
President of Review