

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA.No.73 of 1997

New Delhi, this 23rd day of September, 1997.

HON'BLE DR JOSE P. VERGHESE, VICE CHAIRMAN(J)
HON'BLE MR K. MUTHUKUMAR, MEMBER(A)

V. A. Deshmukh
S/o Late Shri A. N. Deshmukh
R/o BB/15-E Janakpuri
NEW DELHI-110058.

... APPLICANT

By Advocate: Shri R. P. Aggarwal

versus

Union of India, through
The Registrar General
and Ex-Officio Census Commissioner
for India, Ministry of Home Affairs
Government of India
2-A Man Singh Road
NEW DELHI-110011.

... RESPONDENT

By Advocate: Shri R. V. Sinha

ORDER (ORAL)

Dr Jose P. Verghese, VC(J)

The applicant alongwith other officers was promoted to the post of ADCO(T) Group 'A' Gazetted in the month of February 1993 in the scale of Rs.2200-4000 on adhoc and temporary basis. The basic pay was fixed at Rs.3100/-. After having continued in the said post, he was reverted to the lower post of Investigator in the pay scale of Rs.1640-2900 with effect from 1.2.94 and his pay was fixed as Rs.2900 in lower post of Investigator. He retired from Government service on superannuation on 31.10.94 while holding the post of Investigator and his pension and other pensionary benefits were settled on the basis of his last pay drawn.

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2. The short issue that is to be decided here is what is the applicant's last pay drawn and whether he is entitled to arrears of pay between 3.2.94 to 31.10.94, the period during which the applicant happened to be reverted through an administrative error.

3. The respondents in the reply stated after the respondent himself considered the representation received in this regard from the applicant against the reversion order dated 8.2.94, the matter was examined in detail and with the approval of the competent authority the affected persons were given notional re-promotion and put all the incumbents back from original post by an order dated 19.8.96. Thus the earlier reversion order passed on 8.2.94 was treated as withdrawn. The pay of all these officers, except that of the applicant, effected and fixed notionally and in the case of the applicant it could not be done since the applicant had, in the meantime, superannuated on 31.10.94. It is worth mentioning that the officers whose pay protection was notionally made did draw their enhanced pay from the date of joining the post of ADCO(r). In the case of the applicant re-fixation of his pay and revision of his pension could not be undertaken but for the pendency of this OA in the meantime. The counsel for the respondent states that this application is premature for the reason that the applicant has approached this court before a final decision was taken by the appropriate authority. It was also stated that the order in the case of the applicant passed on 26.3.97 was based on the M.H.A.

O.M. dated 5.12.59 and accordingly the applicant is not entitled to arrears of pay payment and what the applicant is entitled to is only notional fixation. The counsel for the applicant, on the other hand, submitted that the applicant is entitled to arrears of payment between 1.2.94 till 31.10.94 as well as the re-fixation of pension on the basis of the decision of the Supreme Court in Janakiraman's case. The applicant has also relied upon a decision of Calcutta Bench of this court dated 16.4.93 passed in OA.No.62/92 wherein it was stated that if the employee has not been given to shoulder the higher responsibilities for no fault of his own, he cannot be denied the arrears of payment in this regard.

4. In the circumstances, we find that the order passed by the respondent himself on 26.3.97, wherein the pension of the applicant has already been revised and what remains to be directed is only the payment of arrears between 1.2.94 till 31.10.94.

5. We have heard both the counsels and perused the records and find that the applicant is entitled to arrears of payment between 1.2.94 till 31.10.94 and the same shall be calculated by the respondent in accordance with rules within eight weeks from the date of the order and the same may be paid to the applicant forthwith.

6. With this, this OA is disposed of. No order as to costs.

(K. MUTHUKUMAR)
MEMBER(A)

(DR JOSE P. VERGHESE)
VICE CHAIRMAN(J)