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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 1294/2000
MA 1610/2000

New Delhi, this the 7th day of August, 2002

Hon'ble Sh. Govindan S.Tampi, Member (A)

1. Kamla Puri
W/o Sh. S.P.Puri
R/o 13/5, East Punjabi Bagh
New Delhi - 110 026.

2. Devi Bai
W/o late Sh. Shiv Dayal
R/o H.No.12-B, Pocket-A
DDA Flats, Hari Nagar Depot
New Delhi - 110 064.

...Applicants

(By Adv. Sh. S.K.Gupta)

V E R S U S

1. Govt. of NCT of Delhi
through Chief Secretary
5, Sham Nath Marg
Delhi.

2. Secretary
Social Welfare
5, Sham Nath Marg
Delhi.

3. Director
Social Welfare
Canning Lane, K.G.Marg
New Delhi - 110 001.

...Respondents

(By Adv. Sh. George Paracken)

O R D E R (ORAL)

By Sh. Govindan S.Tampi,

MA 1160/2000 for joining together is allowed.

2. Reliefs sought for in this OA by the two applicants are as below :

i) to direct the respondents to pay the arrears of pay of the period when the applicants were kept out of job after retiring them at the age of 58 years, after deducting the amount of pension drawn by them ;

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ii) to direct the respondents to re-assess the pay of the applicant in accordance with Vth Pay Commission's Recommendations and pay the arrears ;

iii) to pay the interest @ 18 % p.a. on the aforesaid arrears ;

iv) to direct the respondents to pay the senior scale and selection scale and stagnation increment, fixed Medical allowance etc. along with interest @ 18 % p.a. and

v) to pass such other and further order which this Hon'ble Tribunal may deem fit and proper.

3. Heard S/Sh. S.K.Gupta and George Paracken, Id. counsel for the applicant and the respondents respectively.

4. The two applicants were posted as Trained Graduate Teacher (TGT) at Child Home, Tihar, Jail Road, Delhi and Literacy Teacher at Nari Niketan, Jail Road, Delhi respectively, at the time of their retirement on superannuation. Following the decision of the Tribunal on 10-6-94 in the OA filed by Jagdish Raj Gupta & Ors., granting certain benefits including enhancement of retirement age to 60 years, the applicant along with a few others filed OA 1228/95, which was decided on 7-10-96, extending the benefits to them as well. During the pendency of the OA, they had obtained an interim order on 22-12-95 that in the event of their succeeding in the OA, they would also

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be entitled for all the benefits including enhanced retirement age of 60 years. However, the benefits were restricted to the period from 7-10-96, the date on which the order was issued, the applicant filed a Review Application which was disposed of on 2-1-98 by deleting the words "with effect from the date of this order". The respondents thereafter fixed the dates of retirement of applicant No.1 as 28-2-98 instead of 29-2-96 and of applicant No.2 as 31-12-97 instead of 31-12-95, though the applicants had retired on completion of 58 years of age on 29-2-96 and 31-12-95 respectively. In the circumstances, the applicants were entitled for revision of their final pension in terms of the recommendations of Vth Central Pay Commission, made available to those who have retired after 1-1-96. The same, however, has not been done. Their representations also have not evoked any positive response. Hence this OA.

5. Grounds raised in the OA are that

i) the date of retirement having undergone a change from 58 to 60, the applicants are entitled for revised pensionary benefits and arrears of pay ;

ii) the commutation of pension would also call for revision ;

iii) denial of the benefits emanating from the Vth Pay Commission's recommendations was improper and incorrect ;

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iv) extension of other benefits like senior scale, selection grade and fixed medical reimbursement amount along with arrears also have been wrongly denied ;

6. On behalf of the respondents, it is pointed out that the applicants had given their full pensionary benefits on the enhancement of their retirement age and, therefore, their claim for arrears and pay allowances, which they have not worked properly was totally unjustified. Following the decision of the Tribunal dated 22-12-95, the applicants had been given the benefit of two more years' service by granting increments notionally and adding two more years as qualifying service for computing pensionary benefits. The applicants' claim for payment of arrears was incorrect as they had not physically worked in the Govt. during the period. As the date of retirement underwent the change after the official had actually retired, only pensionary benefits were to be granted and no arrears of pay and allowances were admissible. The applicant's case for grant of senior scale was also considered and the benefit had infact been granted on 28-9-2000. It would thus seen that the benefit of selection grade has infact been extended while other reliefs which have been incorrectly claimed have not been granted. The respondents have acted correctly and the OA, therefore, deserved to be dismissed, according to the respondents.

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7. Respondents also filed additional documents indicating that the payments in respect of all the benefits have been duly made over to the applicants. This included arrears of leave encashment, arrears on increments, revised pension, commutation of pension etc.

8. In the rejoinder, it is pointed out that the applicants were entitled to full benefit of pay and allowances including arrears on their retirement having been raised from 58 yrs. to 60 yrs. and they were prepared to perform the duties, but the respondents had arbitrarily denied the same. It is also pointed out that the retiral benefits to the individuals had been given following the issue of revised PPO and as there was delay in the release of the retiral benefits, the applicants should be granted interest.

9. Both Sh. S.K.Gupta and Sh. George Paracken reiterated their respective pleas during the oral submissions. Sh. Gupta also relied upon the decision of the Hon'ble Supreme Court in the case of Vijay L.Mehrotra Vs. State of UP & Ors. (2002 SCC (L&S) 278) in support of his plea for grant of interest on the delayed payment of pensionary dues.

10. I have carefully considered the matter. It is not disputed that both the applicants have been declared by this Tribunal in its order dated 7-10-1996 to be entitled for the benefits of selection grade, medical reimbursement amount and most prominently the enhanced retirement age of 60 years. During the

pendency of the OA, the applicants have also obtained an interim order on 22-12-95 that they would be fully entitled to the benefit of enhanced retirement age, in the event of their OA succeeding, which it did ultimately. That being the case. It is evident that the applicants are entitled for full benefits arising from enhanced retirement age and the said benefits cannot be marginalised by taking recourse to the pleas that the applicants had not worked physically during the period between their attaining age of 58 years and 60 years. It is, therefore, not a question of the applicants not deliberately staying away from duty, but a case where they were prevented from doing so. Obviously, therefore, they are entitled for full pay and allowances, including those for the senior scale/selection grade, if they were due to be granted the same in law. The applicants' plea for the grant of arrears on account of delayed payment of pensionary benefits also cannot be overlooked. The decision of the Hon'ble Supreme Court in the case of Vijay L. Mehrotra relied upon by the applicant is fully relevant in this case as well. The Hon'ble Apex Court had held as below :-

"In case of an employee retiring after having rendered service, it is expected that all the payment of the retiral benefits should be paid on the date of retirement or soon thereafter if for some unforeseen circumstances the payments could not be made on the date of retirement."

Payment of interest on the dues which were released on subsequent dates is, therefore, fully justified in the case of both the applicants.

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11. In the above view of the matter, the OA succeeds and is accordingly allowed. Respondents are directed to ensure that the applicants are granted the full benefits of pay and allowances and arrears, which became due on account of enhancement of retirement age of the applicants, in terms of Tribunal's order 7-10-1996. They are also directed to pay to the applicant simple interest worked out @ 8 % p.a. on the dues from the date when they became due for payment to the date when they were actually released. This shall be done within three months from the date of receipt of a copy of this order. No costs.


GOVINDAN S. TAMPI)
ADMINISTRATIVE MEMBER

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