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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1779/2000

New Delhi, this 5th day of March, 2001

Hon'ble Shri M.P. Singh, Member(A)

Prof. P.N. Agarwala
R-71, Greater Kailash I, New Delhi .. Applicant

(By Dr. Surat Singh, Advocate)

versus

Union of India, through

1. Secretary
M/Personnel, Public Grievances &
Pensions, North Block, New Delhi
2. Secretary
M/Heavy Industries & Public Enterprises
Udyog Bhavan, New Delhi
3. Secretary (Expenditure)
Ministry of Finance
North Block, New Delhi .. Respondents

(By Shri Mohar Singh, Advocate)

ORDER

By the present OA, the applicant seeks directions to the respondents to grant him notional promotion to the rank of Secretary and revise the pensionary benefits accordingly.

2. The applicant joined service of IFS on 16.5.1951, his services were taken over for Industrial Management Pool (IMP) in October, 1959 and he retired from service on 29.2.1984 on attaining superannuation. His pension was fixed on the old 1958 IMP scale of Rs.2500. He claims that pension admissible in the rank of Additional Secretary at 50% of the minimum of the scale as per 5th Pay Commission is Rs.11,200/- whereas he is being given a pension of Rs.8200 per month. He places reliance on the internal note of the Joint Secretary, Ministry of Finance dated 17.5.99 recommending his case for pay revision/review from back date and claims that this was

[Signature]

concurrent by the Joint Secretary, Department of Personnel. He further claims that though his case was recommended by R-1 to R-2, no action has been taken so far and that is how he is before this Tribunal seeking the above reliefs.

3. Respondents have resisted the OA. Their contention is that applicant's pension has been revised in terms of OM dated 17.12.98 and on the analogy that pension of all pensioners irrespective of their date of retirement shall not be less than 50% of the minimum pay in the revised scale of pay introduced w.e.f. 1.1.96 of the post last held by the pensioner and therefore it is not possible to revise suo-moto the scale of post held by the applicant and grant him higher pension against the rules on the subject. They also contend that the note dated 17.5.99 (supra) is only a proposal/suggestion which does not entitle him to have any legal right in the matter as it is beyond the recommendations of the 5th Pay Commission. Neither JS, M/Finance nor JS(Per) in DoPT is the competent authority nor the final decision making authority in this regard. The applicant was given the benefit of notional revision of the scale as per 4th and 5th Pay Commissions as provided in the existing rules/instructions.

4. Heard the learned counsel for the parties at length and perused the records.

5. It is evident from the pleadings available before me that the applicant at the time of his retirement was on deputation to the post of Managing Director, Educational Constants India Ltd. w.e.f. 21.4.82 to 29.2.84 in the



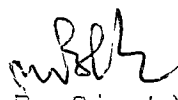
scale of Rs.3500-4000 and his basic pay was fixed at Rs.4000. He opted to remain in the IMP scale on his own volition and all pensionary benefits were calculated on the pay scale of Rs.2250-2500 attached to his substantive post of IMP Grade II held by him. By the Resolution dated 31.1.77 passed by M/Finance, IMP was wound up on 31.3.77, when the applicant was working as Professor in Indian Institute of Management, Bangalore on deputation. When majority of IMP officers opted for permanent absorption in the enterprises/organizations where they were serving, the applicant expressed his desire to continue with IMP vide his letter dated 28.10.77.

6. As rightly contended by the learned counsel for the respondents, I find that the note dated 17.5.99 relied upon by the applicant is internal in nature containing suggestions and cannot be construed as a government decision. The applicant was given all pensionary benefits in accordance with the provisions laid down in the orders dated 10.2.98 and 17.12.98 of DoPT which are based on the recommendations of the 5th Pay Commission. After notional fixation of pay and obtaining the basic pension, applicant's pension was consolidated as per the formula at Rs.7489/- i.e. less than 50% of the minimum of the revised corresponding scale of Rs.16400-20400 (admissible to the rank of Joint Secretary in Government of India) and thus his pension was rightly stepped upto to Rs.8200 w.e.f. 1.1.96 vide sanction dated 18.5.99.



7. I also find that the representation of the applicant dated 10.2.99 has been disposed of at the level of Additional Secretary (Pension), DoPT vide letter dated 21.4.99 about which there is no whisper in the OA. This letter has made the position clear to the applicant.

8. For the foregoing discussions, I do not find that the applicant has made out a case that would warrant this Tribunal's intervention. I do not foresee any merit in the OA and accordingly the same is dismissed. No costs.


(M.P. Singh)
Member(A)

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