(13)

Central Administrative Tribunal
Principal Bench:New Delhi

O.A. No. 2271/2000
O.A. No. 2273/2000
O.A. No. 2393/2000

New Delhi this the 4th day of May, 2001

Hon'ble Mr. V.K. Majotra, Member (A)

1. OA No. 2271/2000

P.C. Kapur
S/o late Shri Mangal Sain
R/o S-410, Greater Kailash-I
New Delhi-110 048

-Applicant

Versus

Union of India, through

Director General Supplies & Disposals,
Jeewan Tara Building
No.5, Sansad Marg,
New Delhi-110 001

-Respondent

2. OA-2273/2000

J.L. Chhabra
S/o late Shri S.R. Chhabra
R/o 301, Nilgiri Apartments
Alaknanda, New Delhi-110 019

Mrs. Asha Chhabra
W/o late Shri J.L. Chhabra,
L.R. R/o 301-Nilgiri Apartments
Alaknanda, New Delhi-110019

-Applicant

Versus

Union of India, through

Director General Supplies & Disposals,
Jeewan Tara Building
No.5, Sansad Marg,
New Delhi-110 001

-Respondent

3. OA-2393/2000

Smt. Vimla Vohra
W/o late Shri S.N. Vohra,
R/o 144, Mandakini Enclave
New Delhi- 110 019

-Applicant

Versus

Union of India, through

Director General Supplies & Disposals,
Jeewan Tara Building
No.5, Sansad Marg,
New Delhi-110 001

-Respondent

(14)

(By Advocate: Shri R. Doraiswami and Shri Sant Singh for the applicant
Shri Rajinder Nischal, for the respondents)

ORDER (Oral)

Mr. V.K. Majotra, Member (A)

As these OAs involved identical questions of facts and law, they have been taken up for disposal by a common order.

2. In these applications, the applicants have challenged orders of the respondent purporting to reduce the revised pension already authorised to the applicants (pursuant to acceptance of the recommendation of 5th Central Pay Commission by the Government) and requiring the applicants to refund the excess pension drawn by them. The relevant impugned orders in all the three cases are dated 28.8.2000 and 19.9.2000 although they are all seperate letters. Whereas in the matter of Shri P.C.Kapur and Shri J.L. Chhabra, the respondent had earlier on authorised basic pension of Rs.9,200/- and family pension of Rs.5,520/- w.e.f. 1.1.96 in terms of Department of Pensions and Pensioner's Welfare OM dated 17.12.98, the two amounts of Rs.9,200/- and Rs.5,520 representing 50% and 30% of minimum of the pay scale of Rs.18,400-22,400/-, later on the respondent as per the impugned order dated 28.8.2000 took a view that instead of taking the minimum of the pay of Rs.18,400/- as the basis for fixing the revised basic pay, pension should have been authorised in terms of OM dated 17.12.98 on the minimum of pay of Rs.14,300/- in the pay

scale of Rs.14300-400- 18,300/- which is the corresponding replacement pay scale for the pre-revised pay scale of Rs.4500-5700 of the post of Dy.Director General of DGS&D. Accordingly, the respondents have contended that the earlier revised basic pension and family pension were inadvertant authorisation of these pensions. Thus, pension was revised to in the case of Shri P.C. Kapur as Rs.7150/- and in the case of Shri Chhabra as Rs.7411/-.

3. Smt. Vohra w/o late Shri S.N. Vohra was earlier on sanctioned revised monthly family pension of Rs.5,520/- w.e.f. 1.1.96 in terms of OM dated 17.12.98 which was later on revised to Rs.4,290/- being 30% of minimum pay of the scale of Rs.14,300-18,300/-.

4. The learned counsel contended that the revised basic pension of these applicants in terms of OM dated 17.12.98 could not have been revised downwords on the basis of the corresponding replacement pay scale for the pre-revised pay scale of Rs.4500-5700 as upgradation of a scale does not involve change in the post. He further contended that ~~wherein~~ the respondents have given a notice to these applicants under Rule-70 of CCS(Pension) Rules,1972 which applies to only revision of pension to the disadvantage of the Government servants on account of detection of clerical errors only. He also pointed out that no proper show cause notice had been issued to the applicants for revision in

the basic pension/family pension and also recovery of excess amount if any which is the essential requirement under the principles of natural justice. Shri Rajinder Nischal, learned counsel of the respondents very fairly accepted that impugned documents had not been issued after a proper show cause notice for revision of pension/family pension and recovery of excess amounts on account of pension/family pension.

5. Having regard to what is stated above, the OAs are allowed and the impugned orders dated 28.8.2000 and 19.9.2000 are quashed and set aside. However, the respondents would be free if so advised to issue a proper show cause notice on the basis of the relevant rules and principles of natural justice to the applicants for revision of pension/family pension in terms of OM dated 17.12.98 and recovery of excess amount, if any on account of pension and family pension. It goes without saying that the applicants will have liberty to approach the Court afresh if they remain still aggrieved by any decision of the respondent relating to their pension/family pension and recovery of excess amounts, if any. No costs.

(V.K. Majotra)
Member (A)

cc.