

(4)

Central Administrative Tribunal
Principal Bench, Delhi.

D.A.No.127/89

Date: 18.5.1992.

R.G. Agrawal

... Petitioner in person.

Versus

Union of India

... Respondents

Shri M.L. Verma

... counsel for the
respondents.

CORAM:

THE HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN.

J U D G M E N T (ORAL)

The petitioner retired from service on 1-8-82 as a Civilian Staff Officer. His pension was fixed at Rs.689/-. There was a second revision of pension and the petitioner having offered for the revision, his pay had to be revised according to the fresh orders of the Government. The petitioner having made the option in favour of the revised pension, it was fixed at Rs.1404 in April, 1987 w.e.f. 1-1-86. It is the petitioner's case that in January, 1988, his consolidated amount of pension was reduced from Rs.1404 to Rs.1336, which, according to the petitioner was not permissible.

2. The respondents have stated in their reply that the petitioner was drawing pension at Rs.743 at the relevant point of time and according to Annexure II, ✓ produced by the petitioner which regulates the pension,

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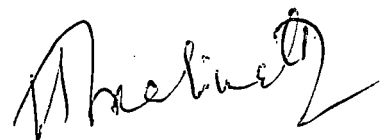
the corresponding pension in petitioner's case comes to Rs.1306. The additional relief granted to the petitioner works out to Rs.30. Thus, the consolidated amount to which the petitioner would be entitled to comes to Rs.1336. The petitioner does not dispute that the basic facts, namely, that at the relevant point of time his pension was Rs.743 and the corresponding pension would be Rs.1306. He does not state that the additional relief has not been properly calculated by applying Rule 4(1)(c) at page 30. Thus, he does not dispute that the total amount of pension including the additional relief which the petitioner would be entitled to get was Rs.1336. In other words, the revised computation made by the authorities is correct. What the petitioner contends is that his pension having been consolidatedly fixed earlier at Rs.1404, the authorities had no competence to reduce the said amount. In this behalf, reliance is placed on rule 70 of Central Civil Service Pension Rules. Clause 1 of the said rules says that :

"Subject to the provisions of Rules 8 and 9 pension once authorised after final assessment shall not be revised to the disadvantage of the Government servant, unless such revision becomes necessary on account of detection of a clerical error subsequently:"

The petitioner's case is that this is not a case of clerical error. He also relied upon the decision of

the Delhi High Court in C.W.No.2253/81 dated 14.12.81 between O.P. Vohra Vs. Union of India. No doubt, rule 70 came up for discussion in that case but on facts, the High Court found that that was not a case of a clerical error. Hence, it was held that revision of pay was not permissible. The short question for consideration, therefore, is whether the revision became necessary on account of clerical error or not. As there is no dispute in regard to the basic facts, it is obvious that there was a clerical error in fixing Rs.1404 as the consolidated amount payable to the petitioner including the additional relief. That being the position, Rule 70 does not come into play. The petitioner has not suffered any loss. He wants to benefit unjustly from the earlier wrong order.

Hence, this petition fails and dismissed. No costs.



(V.S. MALIMATH)
CHAIRMAN.

Pkk.