

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

## NEW DELHI

O.A. No. 2186/89

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~~Ex-Officio~~DATE OF DECISION 10.1.1992.Kanshi Ram KohliPetitionerSh. Jagat Singh with Sh. B.R. Kohli Advocate for the Petitioner(s)

Versus

C.D.A. (Pensions) Allahabad & ors RespondentNoneAdvocate for the Respondent(s)

## CORAM

The Hon'ble Mr. I.K. Rasgotra, Member (A)

The Hon'ble Mr. J.P. Sharma, Member (J)

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal? *No*

*J.P. Sharma*  
(J.P. Sharma)  
Member (J)

*I.K. Rasgotra*  
(I.K. Rasgotra)  
Member (A)

10.1.1992.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

OA NO.2186/89

DATE OF DECISION: 10.1.1992.

KANSHI RAM KOHLI

...APPLICANT

VERSUS

CONTROLLER OF DEFENCE ...RESPONDENTS  
ACCOUNTS (PENSIONS)  
ALLAHABAD (U.P.) & OTHERS.

CORAM:

THE HON'BLE MR. J.K. RASGOTRA, MEMBER (A)

THE HON'BLE MR. J.P. SHARMA, MEMBER (J)

FOR THE APPLICANT

SHRI JAGAT SINGH WITH SHRI

B.R. KOHLI, COUNSEL.

FOR THE RESPONDENTS

NONE

(JUDGEMENT OF THE BENCH DELIVERED BY HON'BLE  
MR. I.K. RASGOTRA, MEMBER (A))

Shri Kanshi Ram Kohli, the applicant has filed this Original Application under Section 19 of the Administrative Tribunals Act, 1985, aggrieved by the order No.G1/C/RW/XX-II dated 29.3.1989 issued by Controller of Defence Accounts (Pension), Allahabad, refusing to discontinue the deduction of Pension Equivalent of Gratuity (PEG) from his pension w.e.f. 1.1.1986 in accordance with the instructions issued by Department of Pensions and Pensioner's Welfare OM No.38/6/86-P&PW dated 12.3.1986.

2. The case of the applicant as putforth by Shri Jagat Singh with Shri B.R. Kohli, learned counsel is that the applicant is a pre-1938 entrant to Government Service and in all cases of pre-1938 entrants the deduction of PEG from the pension has been discontinued in accordance with Government of India's orders dated 12.3.1986. Nevertheless, the deduction on account of PEG from his pension is continuing, despite

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his representations dated 18.7.1988 and 16.11.1988 addressed to C.D.A. (Pension), Allahabad. The applicant made another representation which was forwarded by the Pay and Accounts Officer, Delhi Administration to C.D.A. (Pension) Allahabad on 24.1.1989. The C.D.A. (Pension) Allahabad, however, rejected the claim of the applicant vide impugned letter dated 29.3.1989 stating that:

"No Pension Equivalent of Gratuity was deducted while determining your final pension on your retirement. As such there is no question of restoration of pension equivalent of gratuity in your case."

The applicant nonetheless contends that he is entitled to stoppage of reduction of his pension by PEG amounting to Rs.100/- per month w.e.f March, 1986 in accordance with Department of Pension and P.W. OM No.38/6/86-P&PW dated 12.3.1986.

3. The respondents in their reply have contended that the applicant was sanctioned pension on superannuation at Rs.300/- p.m. w.e.f. 27.7.1966 and D.C.R.G. amounting to Rs.10,400/- vide PPO No.C/1212/67. The calculation of pension was made as under:-

Last 36 months average pay	Rs.800/-	
$\text{pension} = \frac{800 \times 30}{80}$	=Rs.300/-	per

Thus no PEG was deducted from the pension of the applicant. They further refute his contention that he had opted to be governed under clause 2(c) of Ministry of Finance OM No.F.3(16)Est.(Spl)50 dated 2.1.1951. In fact they have filed a copy of his option certificate dated 28.10.1957. In the circumstances they submit that the applicant has no claim.

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4. We have considered the submissions of the learned counsel for the applicant and perused the record carefully. We observe that according to the Department of P&PW's OM dated 12.3.1986 the following three options were available to the pre-1938 entrants to the government service:

- "2(a) coming on the new pension scheme or
- (b) continuing under the rules in force on the 16th April, 1950; or
- (c) drawing pension, including additional pension, under the rules in force on the 16th April, 1950 reduced by the pension equivalent of the gratuity admissible under the new pension scheme and receiving in lieu of this reduction the death-cum-retirement gratuity as provided under this scheme."

The applicant had opted to be governed by option at 2(a) above vide his option certificate (page 33 of the paper book), reproduce below:-

"I, P. No.OUN/109 Rank OOC

Name K.R. KOHLI hereby re-elect to be governed by the new pension rules promulgated in A.I 193/50 as modified vide A.I. 164 of 1957.

Sd/-

Signature

Place: C O D JUBBULPORE

Date:- 28/10/1957

Countersigned

Sd/-

for COMMANDANT JOD"

Accordingly, his pension was calculated correctly and the question of any deduction of PEG would not arise. The deduction of PEG was made only in those cases where the pension was sanctioned under

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clause 2 (c) of the Ministry of Finance OM dated 2.1.1957. Since the case of the applicant is covered by clause 2(a) and pension and D.C.R.G. has been paid to him accordingly, his case does not merit any interference from us. The O.A. is accordingly dismissed with no order as to costs.

*J. P. Sharma*  
(J.P. SHARMA)  
MEMBER (J)

*I. K. Rasgotra*  
(I.K. RASGOTRA)  
MEMBER(A)

January 10, 1992,