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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

DATE OF DECISION: 31-1-1992

OA 1481/88

G.B.K. JAIN

... APPLICANT.

VERSUS

UNION OF INDIA THROUGH
THE GENERAL MANAGER &
FINANCIAL ADVISOR &
CHIEF ACCOUNTS OFFICER,
NORTH EASTERN RAILWAY,
GORAKHPUR.

... RESPONDENTS.

For the applicant ... Shri J.C. Singhal, Counsel.

For the respondents ... Shri K.N.R. Pillai, counsel.

1. Whether Reporters of local papers may be allowed to see the judgement ?
2. To be referred to the Reporters or not ? *yes*

CORAM:

THE HON'BLE MR. JUSTICE RAMPAL SINGH.. VICE CHAIRMAN.

THE HON'BLE MR. D.K. CHAKRAVORTY..... MEMBER(A).

JUDGEMENT

(Judgement of the Bench delivered by Hon'ble
Mr.D.K. Chakravorty, Member(A).)

The short point in this application is whether pension once sanctioned can be unilaterally revised to the disadvantage of the pensioner. The applicant, who had retired from the post of Deputy Chief Engineer, North Eastern Railway, Gorakhpur, was sanctioned pension under

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PPD dated 12.2.87. In computing the pension the period of his qualifying service was taken as more than 33 years. After the implementation of the recommendations of the Fourth Pay Commission, like all other employees who were in service on 1.1.86, the applicant's pay was to be refixed and resultantly the pension was also due to be revised.

The respondents issued a revised PPD dated 22.6.87 where in the qualifying service of the applicant was reduced by excluding his past service of over 5 years, which he had rendered in the Government of India before joining the North Eastern Railway. As a result of this unilateral revision, the applicant suffered monetary loss. According to the applicant, due to this un-authorised reduction in the period of qualifying service, his pension has been reduced by Rs.173/- p.m., the commuted value has been

reduced by Rs.8305/- and the DCRG by Rs.7540/- as compared to the amounts admissible on the basis of the revised pay.

Besides, there will be a recurring loss in dearness relief on pension and his family pension also got reduced.

2. Prior to joining the North Eastern Railway as Trainee Inspector of Works on 12.1.56, the applicant had worked as temporary Inspector of Works in Western Railway from 11.11.50 to 30.3.54 and as Assistant Valuation Officer under the Ministry of Rehabilitation from 31.3.54 to 5.1.56. The applicant's request for condoning the break in service of six days between 6.1.56 to 12.1.56 and counting the period of service from 11.11.50 onwards for purpose of pensionary benefits, was accepted by the General Manager, NE Railway and necessary sanction was issued under memo dated 4.6.83. His total qualifying service, therefore, came to more than 35 years, as against 33 years required for earning full pension. The learned counsel for the applicant contended that since his pension had been
sanctioned finally and not provisionally, the respondents

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had no authority to revise the period of his qualifying service while implementing the recommendations of the Fourth Pay Commission. The learned counsel for the applicant relied on provisions of Rule 69 and 70 of the Civil Service Regulations.

3. The application has been contested by the respondents. They have taken a preliminary objection that the Principal Bench does not have jurisdiction over the matter because the applicant retired from service while working in Uttar Pradesh. We repel this submission since under Rule 6(2) of the Central Administrative Tribunal (Procedure) Rules, 1987, the applicant being retired employee was entitled to move the Principal Bench. The learned counsel for the respondents stated that the sanction of the General Manager for condonation in the break of service and counting of past service for pension was issued erroneously since the applicant had resigned from the service in the Western Railway as also from the Department of Rehabilitation. Further there is no bar to revision of pension to rectify any administrative error or mistake. In support of their contention, the respondents relied on the judgements in the case of Khangeswar Prasad Yadav Vs. U.O.I. & Ors., (1988(6) SLR 442), and Aditya Rao Singh Vs. U.O.I. & Ors., (ATR-1988(2) CAT 429).

4. We have heard the learned counsel for both sides and have also carefully gone through the records of the case.

Rule 70(1) of the Civil Service Regulations, which is relevant for adjudication of this case, is reproduced

below :-

Revision of pension after authorisation

70. (1) 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;

Provided that no revision of pension to the disadvantage of the pensioner shall be ordered by the Head of Office without the concurrence of the Department of Personnel and Administrative Reforms if the clerical error is detected after a period of two years from the date of authorisation of pension.

5. It is abundantly clear that a pension once sanctioned cannot be unilaterally revised except for corrections of any clerical error. In the instant case the applicant's pension had been finally determined in February, 1987. It was not proper for the respondents to re-open and re-determine the period of qualifying service of the applicant at the time of revision of pension arising from implementation of the recommendations of the Fourth Pay Commission. In the light of the ^{un}ambiguous provision of the rules and also in the interest of justice, we quash the revised pension order dated 22.6.87 in so far as it relates to the period of qualifying service. The respondents are directed to re-calculate the pension, gratuity and other terminal benefits payable to the applicant on the basis of the revised pay of the applicant and 33 years of qualifying service. The respondents shall comply with these directions within a period of two months from the date of receipt of this order.

There will be no order as to costs.

D.K. Chakravorty
(D.K. CHAKRAVORTY)
MEMBER (A)

Rampal Singh
(RAMPAL SINGH)
VICE CHAIRMAN