

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA No. 268/88
MP No. 1599/93

Date of decision: 15.07.93.

Shri Ramesh Chandra Gupta

...Petitioner

Versus

Director General, C.S.I.R. & Ors.

...Respondents

Coram:

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

For the petitioner Shri T.C. Aggarwal, Counsel.

For the respondents Shri V.K. Rao, proxy counsel
for Shri A.K. Sikri, Counsel.

Judgement(Oral)
(Hon'ble Mr. I.K. Rasgotra)

We have heard the learned counsel for the petitioner Shri T.C. Aggarwal. On 9.6.1993 Shri V.K. Rao learned proxy counsel for Shri A.K. Sikri, counsel for the respondents had appeared and prayed for one week's time to file reply to the MP 1599/93 in which the learned counsel for the petitioner had asked for production of some documents. We had then passed the following order:-

"Shri V.K. Rao, proxy counsel for Shri A.K. Sikri, counsel for the respondents submitted that as per our order dated 24.7.89 the respondents' right to file the counter-affidavit has been forfeited. The respondents could not file the counter-affidavit for a variety of difficulties. He prays that they may be allowed to file the counter-affidavit. The prayer is allowed. The respondents may file their counter-affidavit before the next date of hearing, with an advance copy to the learned counsel for the petitioner.

The case be listed for final hearing not

before 15.7.93."

Even though the case had been listed for peremptory hearing, we considered it fair and just to allow another opportunity to the respondents to file their counter-affidavit and to file a reply, if they so wish, to the MP 1599/93 filed by the learned counsel for the petitioner. When the matter came up today, Shri V.K. Rao, learned proxy counsel prayed for some more time to file reply. Keeping in view the background of the case and the indifference shown by the respondents we are not inclined to grant any further extension of time. The main reliefs prayed for in the O.A are:-

- a) Pro-rata pension and gratuity and family pension based on 12 years qualifying service
- b) Interest at 18% on the amount due to the applicant from the day the amount was due.

In the MP filed by the learned counsel for the petitioner it has been brought out that the respondents have since sanctioned the pro-rata pension vide copy of the sanction filed at Annexure R annexed to the MP. According to this the petitioner is entitled to pension amounting to Rs.219/- per month w.e.f. 9.5.1981 to 31.12.1985 and Rs.505/- w.e.f. 1.1.1986 onwards. The necessary family pension has also been authorised. In column 'K' of the sanction order which relates to commutation of pension it has been stated "Age at next birth day as on 1.9.1988 is 46 years, Comt. Value is 14.37. Full amount of Rs.219/-" According to the above provisions of commutation in the sanction order the respondents have sanctioned commuted value of pension of Rs.219/-. This works out to Rs.37,765. The surviving grievance of the petitioner is that he was directed to appear before the Medical Board only in January, 1989. The Medical ~~Board~~ ^{Report} was submitted on 11.1.1989 and the commutation was sanctioned on

15.2.1989. In 1989 he was entitled to pension of Rs.505/- per month and not Rs.219/- per month. The commutation should have, therefore, been allowed for full amount of Rs.505/- and not Rs.219/-. According to paragraph-14 of Appendix 18 dealing with grant of pro-rata retirement benefits to Central Government servants absorbed permanently in a public sector undertaking/autonomous body (Swamy's Pension Compilation corrected upto 1.10.1987) a Government servant who opts for or is automatically governed by the alternative (b) in paragraph 11 above, the payment of monthly pension will commence from the due date pending ~~their~~ medical examination in accordance with the provisions of the Civil Pensions (Commutation) Rules. Paragraph-11, referred to above, makes provisions in regard to a Government servant who is permitted to be absorbed in a service or post in an autonomous body or a public sector undertaking etc. In such cases the Government ~~is~~ ^{the servant} deemed to have retired from service from the date of such absorption. "Each such Government servant is required under the relevant orders applicable to him to exercise an option within six months of his absorption for either of the alternatives indicated below:-

(a) receiving the monthly pension and Death-cum-Retirement Gratuity under the usual Government arrangements, or

(b) receiving the gratuity and a lump sum amount in lieu of pension worked out with reference to the commutation tables obtaining on the date from which the commuted value becomes payable."

There is no dispute that the petitioner has opted for lump sum payment in lieu of pension. It is also admitted that he became entitled to payment of pension w.e.f. 9.5.1981. According to paragraph-14 he was thus entitled to monthly pension from the date due till the medical examination was conducted for commutation, i.e., calculating the lump sum value of the pension. In that view of the matter the petitioner was entitled to receive pension for the period from 9.5.1981 to 31.12.1985 at Rs.219/- per month and Rs.505/- per month w.e.f. 1.1.1986 and onwards. There is no dispute that he has not been paid pension upto 31.8.1988. On the other hand, what has been done is that he has been paid commuted value of pension at the age 46 years taken as next birth date as on 1.9.1988. The petitioner can either be paid the pension upto 31.8.1988 at the rate as indicated in the PPO and commuted value of pension from 1.9.1988 taking his age as 46 years as next birth date in 1981. It is not disputed that the petitioner has been paid commuted value of pension taking the rate of Rs.219/-, amounting to Rs.37765/- by the respondents vide order dated 15.2.1989.

2. Thus, what remains to be paid is the actual pension at the rate of Rs.219/- per month from 9.5.1981 to 31.12.1981 and at Rs.505/- w.e.f. 1.1.1986 to the date the actual commutation has been given effect to. On the amount of gratuity the petitioner shall also be entitled to payment of interest at the relevant rate as provided in the Rules. The respondents are directed to make additional payment to the petitioner, as indicated hereinbefore, as early as possible but preferably within three months from the date of communication of this order. No costs.

✓ J. Roy
(C. J. ROY)
MEMBER (J)

San:

J. K. Rasgotra
(J. K. RASGOTRA)
MEMBER (A)