

**CENTRAL ADMINISTRATIVE TRIBUNAL****CHANDIGARH BENCH**

O.A. No. 063/1235/2018

(Order reserved on 08.02.2021)

Chandigarh, this the 19<sup>th</sup> day of February, 2021**HON'BLE MRS. AJANTA DAYALAN, MEMBER (A)**

Suresh Chander son of Shri Shanker Lal aged about 68 years R/o V.P.O. Chandi Tehsil Kasauli District Solan Himachal Pradesh, Pin Code : 173236. (Group C)

.....Applicant

By Advocate: Applicant in person

Versus

1. Union of India through its Secretary to Ministry of Housing and Urban Affairs, Nirman Bhawan, Maulana Azad Road, New Delhi. Pin Code : 110011.
2. Union of India Ministry of Personnel, Public Grievances and Pensions through its Secretary to Department of Pension and Pensioners Welfare Lok Nayak Bhawan Khan Market New Delhi. Pin Code : 110003.
3. Chief Controller (Pension) Ministry of Finance, Department of Expenditure Trikoot-2 Bhikaji Cama Place New Delhi. Pin Code: 110066
4. United Commercial Bank CPPC Branch Nagpur through its Manager Somalwar Bhawan Nagpur Maharashtra Pin Code : 440001.
5. United Commercial Bank Branch Chandi District Solan through its Manager Himachal Pradesh. Pin Code 173236.

.....Respondents

By Advocate: None



## **ORDER**

### **AJANTA DAYALAN, Member (A):**

1. The present OA has been filed by the applicant Suresh Chander seeking quashing of order dated 17.06.2013 (Annexure A-1) vide which his pension has been reduced. The applicant has also stated that the respondents have decided to recover Rs. 5,18,502/- from him and are deducting Rs. 3000/- p.m. from his reduced pension. They have already recovered Rs. 1,77,000/- from the applicant and are in the process of recovering balance amount of Rs. 3,41,502/- from him. In the OA, the applicant has also sought reimbursement of the amount of Rs. 1,77,000/- recovered from him along with interest and has also sought refixation of his pension on higher side. Further, he prays for arrears of pension to be paid to him along with interest @ 9% as well as compensation.
2. The applicant has stated that he was appointed as Mono Key Board Operator in Government of India Press, Shimla on 03.03.1975. He opted for VRS on 01.08.2005 – that is seven years prior to his retirement on superannuation on reaching the age of 60 years. He had rendered over 30 years of service in the respondent department. He started receiving his pension based on pay scale of Rs. 5500-175-9000 and his pension was fixed at Rs. 5,569/- + other admissible allowances. In total, he was in receipt of Rs. 11,138/- at that time.
3. The applicant has further stated that his pension was again revised w.e.f. 01.01.2006 and was worked out to be Rs.



12,587/- p.m. After deduction of commuted value of his pension of Rs. 2,227/-, he was being paid Rs. 10,360/- p.m.

4. The applicant has further pleaded that in 2013, his pension was reduced and recovery of Rs. 5,18,502/- was worked out against him. Towards this recovery, Rs. 3000/- p.m. is being deducted from his pension. The applicant has annexed Annexure A-1 which is a copy of his PPO issued on 17.06.2013. He has also attached Annexure A-2 which are statements of the bank showing recovery of Rs. 3000/- p.m. from his account for September 2013 and July 2018. He also stated that his pension has now been reduced to Rs. 8,392/- p.m. vide order dated 17.06.2013 whereas earlier he was already in receipt of Rs. 12,587/- p.m. w.e.f. 01.01.2006.

5. In addition, the applicant has stated that his pension has been revised without any written notice or opportunity of personal hearing granted to him. Hence, the orders of deduction of pension are against principles of natural justice and need to be quashed.

6. The applicant has further averred that benefit of OM dated 04.08.2016 (Annexure A-3) has not been granted to him. Similar is the case with reference to OM dated 06.07.2017 (Annexure A-4) as well as OM dated 02.03.2016 (Annexure A-5) benefits of which have also been denied to him.

7. The applicant has stated that in case these benefits are given to him, his pension after revision on 01.01.2006 works out to Rs. 12,587/- p.m. His pension based on 7<sup>th</sup> Pay Commission will work out to Rs. 32,349/- p.m. basic + DA +



Medical Allowance. As such, his pension on 01.09.2018 would work out to Rs. 35,613/-.

8. Based on the above pleadings, the applicant has sought relief by way of this OA.

9. The respondents have contested the claim of the applicant. Respondents No. 1 to 3 have stated that the applicant retired voluntarily on 01.08.2005. His basic pension was fixed at Rs. 5,569/- p.m. vide SSA dated 30.12.2005. They have also stated that in this SSA, it was already mentioned that DA upto 50% has already been merged as DP and further DR is payable only beyond 50% as admissible from time to time. After implementation of 6<sup>th</sup> CPC, his basic pension was revised to Rs. 8,392/- w.e.f. 01.01.2006 vide SSA dated 17.06.2013 (Annexure A-1) on the basis of authority of PAO dated 31.05.2013. But even before the issue of this revision, bank revised his basic pension to Rs.12,587/- p.m. ignoring the fact that DA up to 50% has already been merged as DP while fixing his pension at the time of voluntary retirement. This wrong revision of pension by the bank resulted in excess payment of Rs. 5,18,502/- to the applicant. After receipt of pension authority dated 17.06.2013, the bank started recovering excess amount paid to him @ 3000/- p.m. They have already recovered Rs. 1,77,000/- and balance Rs. 3,41,502 is yet to be recovered.

10. The respondents No. 1 to 3 have further stated that the OA is not maintainable as the bank agreed to pay pension to the applicant through his account only based on undertaking of the pensioner dated 25.01.2006 (Annexure R-1).



11. These respondents have further stated that the applicant is entitled to get his pension only as per norms and parameter fixed by Department of Pension & Pensioners Welfare, Govt. of India and Ministry of Finance, Department of Expenditure under Pay Matrix of 7<sup>th</sup> CPC corresponding to pay scale from which the applicant retired.

12. Besides, the respondents No. 1 to 3 have stated that the applicant has not submitted a single application or representation against the recovery being made by UCO Bank Chandi to them since September 2013 till filing of the OA. As such, he has not exhausted alternative remedy available to him to settle his grievance before he chose to file this OA.

13. The respondents No. 1 to 3 have also stated that order dated 17.06.2013 at Annexure A-1 is an order under which the pension of the applicant was revised as per 6<sup>th</sup> CPC by adopting standard norms and practice to fix pension of all Government of India pensioners including the applicant. In case this order is overturned, this Tribunal will face flood of petitions from other pensioners and family pensioners to extend the benefit at par with the applicant. This would not be a lawful act and will cause huge loss to the Government Exchequer - especially as the revision order is issued strictly as per recommendations of 6<sup>th</sup> CPC.

14. These respondents have further pleaded that the applicant is seeking benefit of 6<sup>th</sup> CPC. In that case, he should have approached this Tribunal way back in the year 2013 when cause of action arose to him. The first recovery on account of



excess payment of pension was made in September 2013. However, the OA has been filed in October 2018 – that is more than five years after first recovery. Still, there is no application for condonation of delay.

15. These respondents have finally concluded that the pension of the applicant has been fixed correctly by the respondent department. The pension revision now being sought to be continued by the applicant may have been allowed by the UCO bank at its own level ignoring the fact that 50% of DA was already merged with DP at the time of his retirement, thus leading to wrong fixation of his pension. But this wrong fixation was by the Bank at its own level. The pension of the applicant was correctly fixed through Annexure A-1 as per standard norms and practice adopted in case of other pensioners and no pension reduction was made by respondents No. 1 to 3 in regard to the applicant. The pension now being claimed by the applicant is totally wrong and misleading and is based on misrepresentation

16. In view of above, respondents No. 1 to 3 have concluded that there is no merit in the OA and the same deserves to be dismissed.

17. As regards respondents No. 4 and 5 - that is the UCO Bank, they have stated in their written statement that the application is not maintainable as respondents No. 4 and 5 have nothing to do with the fixation of pension and its refixation. They have further stated that the applicant was receiving pension from UCO Bank, Chandi Branch Office, District Solan, HP. The respondents No. 4 and 5 are only providing banking



service to the applicant and are only maintaining his Saving Bank Account. They have not calculated his pension nor have refixed the same. Hence, they are neither the necessary party nor a proper party to be impleaded in the present application.

18. They have further stated that the respondents No. 4 and 5 are acting as per directions of respondent No. 1 from time to time. They have also stated that they have not made any recovery from the monthly pension of the applicant.

19. In view of above, respondents No. 4 and 5 have stated that the OA deserves to be dismissed as far as respondents No. 4 and 5 are concerned.

20. I have heard the applicant who is appearing in person. I have also gone carefully through the pleadings of the case and have given my thoughtful consideration to the matter.

21. First of all, I observe that though certain basic facts of the case are not disputed, the other facts are clearly disputed. It is not disputed that the applicant was working as a Mono Key Board Operator in Government of India Press, Shimla, H.P. It is also not disputed that he took voluntary retirement on 01.08.2005. It is also not disputed that his qualifying service at the time of his taking voluntary retirement was over 30 years. I also find that his basic pension w.e.f. 01.01.2006 has been fixed at Rs. 8392/- p.m. In support of this, Annexure A-1 dated 17.06.2013 is attached with the OA. After deduction of his commuted value of pension of Rs. 2227/-, the revised reduced pension w.e.f. 01.01.2006 has been calculated at Rs. 6165/-



p.m. only. These facts are not disputed – though the fixation of pension has been challenged in the OA.

22. However, I find that the applicant is claiming that his pension was fixed at Rs. 12,587/- p.m. w.e.f. 01.01.2006. However, he has given no supporting documents whatsoever in support of this. The applicant is also claiming that a total sum of Rs. 5,18,502/- was decided to be recovered from him. However, there is no supporting document indicating this amount of recovery. Moreover, the applicant has pleaded that Rs. 1,77,00/- has been recovered from him. Again, there is no supporting document to establish this figure. The only documents we have are two recoveries of Rs. 3000/- each made from pension in the month of September 2013 and July 2018. These are documents issued by the Bank. However, these do not indicate the reason for which the recovery has been made. Also, if one goes through these two statements, even the figures of Net Pension do not match with the Pension + DR + Medical Allowance – Recovery in either of the two statements. Besides, only two months' statements have been given and no other statement. As such, I do not find these documents adequate or reliable to establish the claim of the applicant in this OA. This is especially so in the face of statement of the respondents No. 4 and 5 - that is the Bank itself in para 2 of their written statement that the respondents No. 4 and 5 have not made any recovery from the monthly pension of the applicant. Hence, the whole basis of the OA is not established before us.



23. I also note that even though the applicant claims that the first recovery was made from September 2013 from his pension, he has approached this Tribunal through this OA only in October 2018 – that is more than five years after the first recovery. This is obviously beyond the time period prescribed under Section 21 of Administrative Tribunals Act, 1985 whereby no application can be admitted by this Tribunal if it is submitted beyond the time line prescribed unless sufficient cause of delay is explained to the satisfaction of the Tribunal. In this case, there is not even an application for condonation of delay – what to talk of sufficient cause to be shown to the satisfaction of this Tribunal. Hence, the OA deserves to be dismissed on the ground of being barred by limitation.

24. Besides above, the very fact that the applicant who claims to be harassed by recovery, has chosen to keep quiet for full five years even after September 2013, when according to him first recovery was made from his pension, itself throws doubt on the genuineness of his claim. This is especially so in the face of the denial of the Bank very categorically that they have not made any recovery from pension of the applicant. Even respondents No. 1 to 3 have denied that they have ordered any recovery from the pension of the applicant.

25. I also observe that though the applicant is claiming reduction of pension by the respondent department at least from 2013 onwards, he has not made any representation whatsoever to either the respondents or even to the Bank. Thus, obviously, the applicant has not chosen the alternative remedies which



were naturally available to him and which in any case every person is supposed to exhaust before he approaches this Tribunal. On this account also, the OA deserves to be dismissed. I may add that this could be one of the reasons for many disputes regarding the basic facts of this case.

26. I also note that respondents No. 1 to 3 have categorically and repeatedly stated that in case of the applicant, 50% of DA already stood merged with his pay when his pension was fixed after his voluntary retirement vide SSA dated 30.12.2005. All the calculations made by the applicant seem to be without taking this basic factor into account. In a way, he is trying to get this benefit twice over.

27. In view of all above, the OA is not maintainable both on limitation and on merits of the case. The applicant has neither exhausted alternative remedy nor has filed the OA within the time line prescribed under Section 21 of Administrative Tribunals Act, 1985. The applicant has not made any representation to any of the respondents – neither the respondents with whom he was working nor the Bank from where he is drawing his pension.

28. In view of above, the OA is dismissed. .

29. There shall be no order as to costs.

**(Ajanta Dayalan)  
Member (A)**

Place: Chandigarh  
Dated: February 19<sup>th</sup>, 2021  
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