

21 (3)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

C.P. NO. 10/94 in
O.A. NO. 681/86

New Delhi this the 6th day of April, 1994

CCRAM :

THE HON'BLE MR. JUSTICE V. S. MALIMATH, CHAIRMAN
THE HON'BLE MR. P. T. THIRUVENGADAM, MEMBER (A)

Des Raj Bhargava,
SBSO Retd.,
A-209, Hari Nagar,
New Delhi - 110064.

... Petitioner

In Person

Versus

1. Shri K. A. Nambiar,
Secretary,
Ministry of Defence,
South Block,
New Delhi - 110001.
2. Lt. Gen, V. N. Kapur PVSM,
Engineer-in-Chief's Branch
Army Headquarters, DHQ P.O.
New Delhi - 110011.
3. Shri Gyan Swarup,
Controller General of Defence
Accounts, West Block V,
R.K. Puram,
New Delhi - 110066.

... Respondents

By Advocate Shri J. C. Madan for Shri P. H.
Ramchandani, Sr. Counsel

O R D E R (CRAL)

Hon'ble Mr. Justice V. S. Malimath -

The petitioner retired before 1.1.1986 and his pension was fixed at Rs.791/-. This determination was made taking into consideration the special pay of Rs.200/- which he was drawing. But by order dated 29.5.1986/11.7.1986 produced by the petitioner as Annexure-D to the O.A., an attempt was made to reduce the pension by excluding the component of the special pay of Rs.200/-. It is in this background that the

petitioner approached the Tribunal with O.A. No.681/86. The Tribunal allowed the application, quashed the impugned order Annexure-D and directed that any recoveries or payments delayed shall be refunded to the applicant immediately with interest at 12% on the said amount. The present contempt petition has been filed alleging that there has been a violation of the order of the Tribunal. The respondents have stated that there is no violation of the orders of the Tribunal. They say that even though the order Annexure-D was made to reduce the pension, the concerned authorities had not taken note of the same and went on paying pension at the rate of Rs.791/- until interim order of stay was granted by the Tribunal and when once stay was granted they were under an obligation to pay pension at the rate of Rs.791. They have accordingly paid the pension. Therefore, they assert that no deduction has been made or no reduction in pension was actually given effect to in pursuance of the order Annexure-D, quashed by the Tribunal in O.A.681/86. Hence, it is submitted that the question of refunding the amount or interest being paid on the same does not arise.

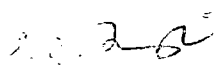
2. The petitioner who argued his case in person does not dispute this factual position. In that view of the matter, there is nothing which survives for examination in these contempt of court proceedings. However, the petitioner submits that with effect from 1.1.1986, revised scheme for grant of pension came into force, the benefit of which the petitioner was entitled to receive. The authorities did not give the benefit of the revised pension scheme to the petitioner stating

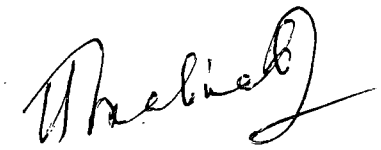
that the petitioner's O.A. was pending before the Tribunal and that, therefore, they would take action in the matter only after the disposal of the same. Thus, it is urged that the petitioner was not given the benefit of the revised pension scheme which came into force w.e.f. 1.1.1986. It is no doubt true that this was not brought within the scope of the original application by the petitioner. Hence, it cannot be said that failure on the part of the respondents to give the benefit of the revised scheme of pension w.e.f. 1.1.1986 is an act which attracts the provisions of the Contempt of Courts Act. But that does not mean that the respondents are not liable to pay pension in accordance with law to the petitioner. If the respondents, as asserted by the petitioner, did not give him the benefit of the revised pension which he became entitled to w.e.f. 1.1.1986 on the ground that the O.A. was pending before the Tribunal, it is just and fair that the respondents discharge their legal obligation and give the petitioner the benefit of the revised pension w.e.f. 1.1.1986 to which he has become entitled to. It is all the more necessary to do so for the reason that they withheld from taking such action on the ground that the O.A. was pending. Now that the O.A. has been disposed of, they must respect the rights of the petitioner and grant him pensionary benefits to which he has become entitled to w.e.f. 1.1.1986. Having regard to the facts and circumstances, it would not be just and proper for the respondents to take an attitude that may compel the petitioner to approach the Tribunal with another application. The

petitioner has already retired long back and it is but fair that we direct the respondents to examine the claim of the petitioner for pension w.e.f. 1.1.1986 according to the revised scheme for grant of pension and to grant him the benefit of the revised pension with utmost expedition. We expect the respondents to bring these directions to the notice of the concerned authorities so that there is no undue delay in implementation of these directions.

3. With these directions, these proceedings are dropped.

4. Let this order be communicated to the respondents forthwith.


(P. T. Thiruvengadam)
Member (A)


(V. S. Malimath)
Chairman

/as/