

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH,
NEW DELHI.

Date of Decision: July 08, 1992.

OA 1711/87

S.K. AGGARWAL ... APPLICANT.

Vs.

UNION OF INDIA & ORS. ... RESPONDENTS.

CORAM:

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

For the Applicant ... None.

For the Respondents ... Ms. Dharam Preet
Sahota, proxy counsel
for Shri P.H. Ramchan-
dani, counsel.

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

JUDGEMENT (ORAL)

(DELIVERED BY HON'BLE SHRI J.P. SHARMA, MEMBER (J)).

The applicant retired from the office of the Director General, RDSO, Lucknow in terms of Office Order dated 31.5.1985. His retirement was to provide permanent absorption in Public interest in RITES w.e.f 21.7.1985. The applicant has filed his settlement papers sometimes in July, 1985 and opted for 100% commutation of pension as permissible to the applicant under terms of condition for such of the retirees seeking permanent absorption in Public Sector Undertakings.

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The applicant also received pension from 21.7.1985 to 24.4.1986 when the applicant received 100% commuted value of pension. The applicant, in this case, has assailed the circular 2/1/87-PIC dated 16.4.87 issued by the Ministry of Personnel, Public Grievances & Pensions, Department of Pension & Pensions Welfare, New Delhi.

The grievance of the applicant is that he has the status of pensioner on 31.12.85 and as such is eligible for enhancement of pension as per circular of 16.4.1987.

The respondents contested the application and filed reply stating that the applicant opted for full commutation of his pension vide his application dated 8.7.85 (Annexure R-2). The pension was calculated @ Rs.379/- per month at the existing rates and whole of the value of the pension ^{about} ~~set~~ Rs.68,903/- was paid to the applicant as a one-time settlement. In terms of para-10(a) of the circular referred to above of Ministry of Personnel dated 16.4.87 ^{which} clearly states that those retirees who have been absorbed in Public Sector Undertakings or Autonomous bodies from the date prior to 1.1.86 and have opted for 100% commutation of pension even if the commutation value has not

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paid to them before 1.1.86 will not be covered by the said orders. Their pension will not be revised in terms of the OM dated 16.4.87 and the commutation value will be based on the original amount of pension admissible under the pre 1.1.86 provisions.

The applicant is not present today. The learned counsel for the respondents argued the case pointing to the relevant claim by the applicant stated in para-9 at page 6 of the application. The applicant has desired that he should be re-confirmed as an Ex-Pensioner on 1.1.86 and the benefits of increase in pension as per circular of 16.4.87 be ordered to be paid to him. The circular of 16.4.87 is Annexure-A to the application itself. Para 10 sub-clause (a) clearly lays down that if a government servant is permanently absorbed in Public Sector Undertakings/ Autonomous bodies continue to draw pension from the Govt., their pension will be updated in terms of these orders. In case where the government servants have drawn one-time lumpsum terminal benefits equal to 100% of their pension their cases will not be covered by these orders. There is a further clarification by the Ministry of Personnel by the order dated 8.3.88 (Annexure R-3). In para 4 which lays down that the orders dated 16.4.87 will not apply to the retirees

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who have been absorbed in Public Sector Undertakings or Autonomous bodies from a date prior to 1.1.86 and have opted or may opt for 100% commutation of pension even if the commutation value has not been paid to them before 1.1.86. Thus, under above OM the applicant is not entitled to the re-confirmation as Ex-pensioner on 1.1.86.

The respondents vide their reply (Annexure-E) to the application have also informed the applicant regarding this factual and legal position. There cannot be any discrimination in such a case because it was on account of the option given by the applicant that he was paid 100% commutation value of the pension. Further, the pension issued from 1.1.86 in cases of regular pensioners in terms of OM dated 16.4.87 consist of three elements namely; the original basic pension, dearness relief and the additional relief recommended by the Commission. The dearness relief of the additional relief do not qualify for commutation or ^{what} can be commuted under the Pension Rules is only the amount of pension. It is further stated by the respondents that there are two distinct classes of pensioners who has only source of income is pension/family pension and the other pensioners or family pensioners who were also employee of the Public Sector Undertakings enjoying

the benefits of pension and pay in the Public Sector Undertakings. Those government servants who have commuted or opted to ~~continue~~ ^{commutation of} 100% pension on absorption in the Public Sector Undertakings are also not eligible to receive any relief as is not also put in category No.2, said above, since it was to be pensioners on the date of absorption in the Public Sector Undertakings. The respondents have also referred to the decision of the Calcutta Bench of CAT in OA 172/86 Shambhu Nath Tripathi Vs. UOI decided on 27.8.87.

Considering all the aspects of the matter the application is disposed of on the basis of pleadings on record and the arguments advanced by the learned counsel for the respondents and is dismissed as devoid of merit leaving the parties to bear their own costs.

J. P. Sharma
6.7.92
(J.P. SHARMA)
MEMBER (J)
06.07.92