

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

OA 2791/2004

New Delhi, this the 22<sup>nd</sup> day of November, 2004

Hon'ble Sh. Sarweshwar Jha, Member (A)

J.S.Guleria  
S/o Shri Mohinder Singh  
R/o J-69, Gali No.8  
Kartar Nagar, P.O.Seelampur  
Delhi - 110 093.

...Applicant

(By Advocate Dr. D.C.Vohra)

V E R S U S

1. Union of India : through  
The Secretary  
Ministry of Defence  
South Block, New Delhi 110 011.
2. The Controller General  
of Defence Accounts  
West Block-V, R.K.Puram  
New Delhi - 110 066.

...Respondents

O R D E R (O R A L)

Heard the learned counsel for the applicant. At the very outset, he has submitted that the benefit of increment, which fell due in respect of the applicant on 1.4.98, should have been given to him as prayed for by him vide his representation addressed to the Controller General of Defence Accounts and Controller of Defence Accounts dated 3.5.2003 and in the light of the decision of the Hon'ble Andhra Pradesh High Court as has been referred to in the decisions of the Hyderabad Bench of the Tribunal as given in OA 797/2002 decided on 12.11.2002. The decisions which have been referred to read as under:-

"5. Regarding the first question, the same issue has been decided by the Hon. High Court in the case of

Union of India vs. R. Malakondaiah and others reported in 2002 (4) ALT 550, wherein the Hon. High Court has held as under: -

"With the completion of one year's service, an employee becomes entitled for increment, which is otherwise not withheld. After completion of the one-year service, the right accrues and what remains thereafter is only its enforcement in the form of payment. Therefore, the benefit of the year-long service cannot be denied on the plea that the employee ceased to be in service on the day on which he was to have been paid to the increment. There is no rule, which stipulated that an employee must continue in service for being extended the benefit for the service already rendered by him."

Allowing the said OA, the Tribunal gave the following directions: -

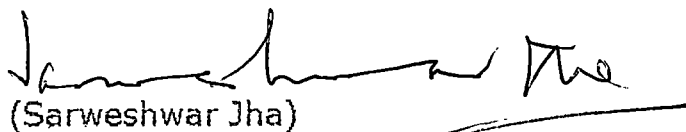
'In result, we allow the application at admission stage, by directing the respondents to release the annual increment that has become due on 1-1-2002 and grant all consequential benefits including his pensionary benefits on the basis of the increment so released along with DA as per his entitlement treating his date of retirement as 1.1.2002. Respondents shall complete the above exercise with two months from the date of receipt of a copy of this order.'

It appears that the respondents considered the request of the applicant as made in his representation, but have not acceded to it for the reasons as given by them in their letter dated 1-9-2004 (Annexure A-9). They have not made any reference to the decisions of the Hon'ble Andhra Pradesh High Court nor of the Hyderabad Bench of the Tribunal as referred to hereinabove. They have also not cared to make any reference to the relevant provisions, namely, Rule 5 (2) of the CCS (Pension) Rules, 1972 in this regard which has been referred to in para 9 of the decisions of the Hyderabad Bench of the Tribunal in OA 797/2002. It thus appears that the subject matter of this OA which had been brought up by the applicant in his representation as referred to above has not been given very careful and serious consideration by the respondents while examining the matter.



2. In view of the fact that the matter and the reliefs as have been prayed for by the applicant in this OA are covered under the decisions of the Hyderabad Bench of the Tribunal in which there is also a reference to the decision on the same lines of the Hon'ble Andhra Pradesh High Court, it will be appropriate that the respondents give a fresh consideration to the subject and the prayer of the applicant as made vide this OA keeping in view the said decisions of the Hon'ble High Court and the Tribunal and communicate the outcome thereof to the applicant through an appropriate speaking order.

3. Accordingly, this OA is disposed of at the admission stage itself with a direction to the respondents to complete the exercise as directed above within a period of two months from the date of receipt of a copy of this order. As further prayed for by the learned counsel for the applicant, the respondents shall also consider extending the consequential benefits to the applicant in the event of this application having been re-considered in the light of the above directions as per the relevant rules on the subject.

  
(Sarweshwar Jha)  
Member (A)

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