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Central Administrative Tribunal
Principal Bench, New Delhi.

OA-1396/2004

New Delhi this the 20th day of April, 2005.

Hon'ble Shri Shanker Raju, Member(J)

Sh. B.N. Chadha,
S/o late Sh. Mulk Raj Chadha,
1st Main Road, RMV-II Stage,
Bangalore, Retired Manager,
Ordnance Equipment Factory,
Kanpur.

..... Applicant

(through Sh. R.R. Bharti, Advocate)

Versus

1. Union of India through
Secretary,
Ministry of Personnel,
Public Grievances and Pensions,
New Delhi.
2. The Controller General of Defence Accounts,
West Block V, R.K. Puram,
New Delhi.
3. Secretary,
Ministry of Finance,
Deptt. of Expenditure,
New Delhi.
4. Secretary Ministry of Law,
Department of Legal Affairs,
New Delhi.

..... Respondents

(through Ms. Meenu Mainee, Advocate)

Order (Oral)

Heard the learned counsel for the parties.

2. By virtue of this OA, applicant has sought quashing of order dated 22.03.2004 upholding the revised PPO and further revision of pension to 50% of the emoluments in the revised scale of pay introduced w.e.f. 1.1.1996 with arrears and interest thereon. Applicant undisputedly superannuated on 12.12.1971. CCS (Pension) Rules, 1972 were promulgated on 01.06.1972. As per Ministry of Personnel, Public Grievances & Pensions, O.M. dated

10.02.1998, while implementing the decision on the recommendations of Fifth Central Pay Commission, revised the pension of pre 1996 pensioners. It has been decided that pension/family pension of all pre 1986 pensioners, who were in receipt of the pension as on 01.01.1996 under Liberalised Pension Rules, 1950, the pension would be fixed as per notional fixation revised under the O.M.

3. By modification dated 17.12.1998 issued vide O.M., Para-4 substitutes Para-2 of O.M. dated 10.02.1998 and it is decided that pension so calculated shall be consolidated as on 01.01.1996 in accordance with the provisions contained in paragraph 4.1 of this Department's O.M. No.45/86/97-P&PW(A)-Pt. Dated 27.10.1997 and such consolidated full pension shall not, however, be less than 50 percent of the minimum of the revised scale of pay introduced w.e.f. 01.01.1996 for the post last held by the concerned pensioner. However, such pension would be suitably reduced pro-rata, where the pensioner has less than the maximum required service i.e. 30 years. As per Rule 49 of the Pension Rules ibid which is applicable to the pensioner as on the date of superannuation and would not be less than Rs. 1275/-.

4. In the above conspectus, learned counsel of the applicant states that this modification would only apply to those who superannuated after 01.06.1972 and this Rule 49 would have applicability otherwise to retirees. Pre 01.06.1972 would not be covered and in completion of 30 years would mutatis mutandis extends benefit of fixation of pension to the 50% of the maximum of the revised scale.

5. On the other hand, respondents' counsel vehemently opposed the contentions and strongly relied upon modification contained in OM dated 17.12.1998. Learned counsel further stated on the basis of OM dated 09.10.1990 to contend that rounding of infraction is permissible and now the pension revised is in accordance with rules.

6. I have carefully considered the rival contentions of the parties and perused the material placed on record.

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7. In the light of O.M. dated 10.02.1998 which applies to all pre-retirees of 1986 and modification dated 17.12.1998 would apply only when a person has retired on superannuation after 01.06.1972 only then Rule 49 of the Pension Rules would apply and in that event non-completion of 33 years of service would disentitle grant of full pension.

8. In this view of the matter, this O.A. is allowed. PPO prepared is set aside. Respondents are directed to revise the pension of the applicant w.e.f. 01.01.1996 in accordance with OM dated 17.12.1998 and fix it at Rs.6000/- P.M. In that event, the applicant shall be entitled to all consequential benefits which would be disbursed to him within 3 months from the date of receipt of a copy of this order. No costs.

S. Raju
(Shanker Raju)
Member(J)

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