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CENTRAL ADMINISTRATIVE TRIBUNAL : PRINCIPAL BENCH

OA 1745/2004

New Delhi, this the 22nd day of July, 2004

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

Sh. K.L.Chopra
S/o Late Sh. C.L.Chopra
Retd. Joint Assistant Director
Intelligence Bureau
Ministry of Home Affairs
Govt. of India
R/o 0-3, Hans Apartment
East Arjun Nagar
Delhi - 110 032.

...Applicant

(By Advocate Sh. P.C.Chopra with
Sh. B.B.Rawal and Sh. S.L.Lakhanpal)

V E R S U S

Union of India through

1. Secretary to the Govt. of India
Ministry of Home Affairs
Central Secretariat
North Block, New Delhi - 1.
2. The Director
Intelligence Bureau
Ministry of Home Affairs
Govt. of India
Central Secretariat
North Block, New Delhi - 1.
3. The Pay & Accounts Officer
Pay & Accounts Office (Intelligence Bureau)
Ministry of Home Affairs
Govt. of India
Central Secretariat
North Block, New Delhi - 1.
4. The Manager
Link Office (Pension)
Punjab National Bank
through the Sr. Manager
Punjab National Bank
Radhey Puri Branch
Delhi - 110 051.

...Respondents

O R D E R (ORAL)

Shri Sarweshwar Jha,

Heard the ld. counsel for the applicant.

2. He has submitted that the applicant's pension has been revised to his disadvantage without serving any notice on him and without assigning any reason the~refr vide the office of the PAO, IB letter dated 5-7-99 (Annexure 'A'). He

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has served a legal notice on the respondents on 24-7-2002 giving the details of his pension and also contending that his pension could not have been reduced to his disadvantage under Rule 70 of the CCS (Pension) Rules, 1972 without affording him an opportunity unless such revision becomes necessary on account of detection of any clerical error subsequently. The said provision further provides that no revision of pension to the disadvantage of the pensioner shall be ordered by the Head of Office without concurrence of the Department of Personnel and Administrative Reforms if the clerical error is detected after a period of two years from the date of authorization of pension. It further provides that retired Govt. servant concerned shall be served with a notice by the Head of Office requiring him to refund the excess payment of pension within a period of two months from the date of receipt of notice by him. Ld. counsel for the applicant has submitted that no clerical error has been detected in his case nor has anything to this effect been conveyed to him by the competent authority. He has further submitted that he has not been served any notice either.

3. The applicant appears to have followed up the matter with the respondents who have merely informed him from time to time that the matter is under consideration in consultation with the Ministry of Home Affairs. It is already more than two years since he has served a legal notice on the respondents, and they are still considering the matter, in the process, subjecting the applicant to considerable hardship in the form of being able to receive only the reduced pension. The hardship of the applicant has been further compounded by the fact that the excess amount of Rs.67,501/- has already been recovered from him @ Rs.2708/- p.m. The respondents appear to have taken a position vide their communication dated 7-5-2002 that the disbursing bank

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should immediately start paying pension to the applicant at the revised rates and that excess pension already paid to him might be adjusted later on after data from all the concerned have been collected. It appears that the advice of the MHA has not been complied with by the respondents themselves. It transpires from the ld. counsel for the applicant that applicant is being paid pension at the revised rate as conveyed to him vide the impugned order.

4. ~Ld. counsel for the applicant has citd a number of decisions of the Hon'ble Supreme Court and also of this Tribunal whereby such revision has not been allowed. Copies of the relevant decisions of the Hon'ble Supreme Court are placed at page 54-59 of the OA. The decisions of this Tribunal as given in OA 1575/2001 on 6-8-2002 in the case of **B.M.Narang v. UOI & Ors.**, a copy of which is placed at page 49, have also been cited in which a similar case has been dealt with and the respondents have been ordered to restore the recoveries already effected. Reference has also been made to the decisions of the Hon'ble Supreme Court in **Yasho Rajya Lakshmi & Ors. v. State of Jammu & Kashmir & Ors.** as reported in II (2001) CLT 395 (SC) in which, among other things, the need to serve a show cause notice to the applicants in such situation has been emphasized. Decisions in the case of **Chairman, Railway Board & Ors. vs. C.R. Rangadhamaiah & Ors.** as reported in 1997 (6) SCC 623, have also been cited in which, among other things, retrospective amendment of statutory rules, adversely affecting pension of the employees who already stood retired on the date of the notification, held invalid. It has also been held in the said decision that retrospective reduction of pension is non-permissible. Ld. counsel for the applicant, under these circumstances and particularly for the reason that the matter is still pending with the respondents despite the impugned

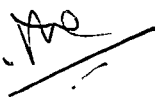
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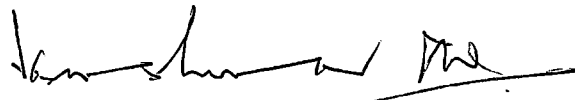
order having been represented against by the applicant vide his notice served on them on 24-7-2002, has prayed that the reliefs sought by the applicant in paragraph 8 of the OA may be granted and also that the respondents be restrained from making any further recovery from the pension of the applicant and that whatever recovery has already been made may be restored.

5. It is observed that the respondents have not rejected the case of the applicant. They are, in fact, still considering the matter as submitted by the applicant to them vide his legal notice as also his subsequent reminders. The respondents have made it abundantly clear vide their communications, copies of which are placed on record, that they are still considering the matter. Under these circumstances and having regard to the decisions as have been relied upon by the applicant in support of his case, I am, therefore, of the considered opinion that the ends of justice shall be met if this OA is disposed of at the admission stage itself with a direction to the respondents that they expedite their consideration and decision in the matter as has already been submitted to them by the applicant vide his legal notice dated 24-7-2002 keeping in view the relevant provisions of the CCS (Pension) Rules as referred to by the applicant and also the various decisions of the Hon'ble Supreme Court and also of this Tribunal as relied upon by the applicant and copies of some of which are also placed as Annexures to this OA, within a period of three months from the date of receipt of a copy of this order.

6. Further, having observed that the impugned and the subsequent communications as issued by the respondents do not indicate the relevant authority as well as the relevant provisions under which the said orders reducing the pension of the applicant and also effecting the recoveries of the

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alleged excess pension have been made, and as prayed for by the learned counsel for the applicant, I am also of the view that it would be quite in order if the respondents are directed to restore the pension of the applicant and to refund the recoveries made from his pension so far, till such time that they have considered and decided the matter, as directed above. Ordered accordingly. They (the respondents) will, however, have liberty to proceed in the matter as per relevant provisions/rules on the subject after they have considered the matter and finally decided it as directed above following strictly the said provisions particularly those as given in Rule 70 of the CCS (Pension) Rules and keeping in view the decisions of the Hon'ble Supreme Court and the Tribunal as referred to hereinabove.



(Sarweshwar Jha) -
Administrative Member

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