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Central Administrative Tribunal
Principal Bench

OA No. 623/2004

New Delhi this the 10th day of March, 2004.

Hon'ble Mr. V.K. Majotra, Vice-Chairman (A)

Sh. I.D. Lonial,
Ex-Private Secretary,
Ministry of Rural Development,
R/o 56, Trilkia Apartments,
Near Patparganj Depot,
New Delhi-92. Applicant

(through Sh. S.N. Anand, Advocate)

VERSUS

1. Union of India through Secretary
Ministry of Rural Development
Krishi Bhawan,
New Delhi.
2. Pay and Accounts Officer
Government of India
Ministry of Rural Development
Krishi Bhawan
New Delhi.
3. Pay and Accounts Officer
Central Pension Accounting Office
Ministry of Finance
Trikoot-II Complex (Behind Hotel Hyatt Regency)
Bhikaji Cama Place,
New Delhi-110066. -Respondents

ORDER (ORAL)

: Learned counsel heard. Applicant
superannuated with effect from 31.12.1995 from the
post of Private Secretary in the Ministry of Rural
Development. Applicant's retiral benefits are stated
to have been computed on the basis of last pay drawn
by him as on 31.12.1995. Government of India,
Department of Pension and P.W. OM No.F.45/86/97-P and
P.W. (A)-Part-I dated 27th October, 1997 readwith OM
No.45/10/98-P&PW(A) dated 17.12.1998 ^{which is} reads as follows:

"Minimum and maximum amount of pension
enhanced from 1.1.1996."

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Pension shall continue to be calculated at 50% of the average emoluments in all cases and shall be, subject to a minimum of Rs.1275/- per month and a maximum of upto 50% of the highest pay applicable in the Central Government, which is Rs.30,000/- per month since 1st January, 1996, but the full pension in no case shall be less than 50% of the minimum of the revised scale of pay introduced w.e.f. 1st January, 1996 for the post last held by the employee at the time of his retirement. However, such pension will be suitably reduced pro rata, where the pensioner has less than the maximum required service for full pension as per the rule (Rule 49 of CCS (Pension) Rules, 1972) applicable to the pensioner as on the date of his/her superannuation/retirement and in no case it will be less than Rs.1275/- per month. Accordingly, the provisions of Clauses (a) and (b) of sub rule (2) of Rule 49 of the Pension Rules shall stand modified. The other provisions contained in Rule 49 shall continue to apply.

The revised provisions as per these orders shall apply to government servants who retire on or after 1.1.1996."

2. Learned counsel of applicant has relied on FR 56 (a) as also Full Bench Mumbai decision in OA-459/1997 (Venkataram Rajagopalan and Anr. v. Union of India) decided on 15.11.1999 to seek the following reliefs:

"a) Direct Respondents to fix applicant's pay at Rs.7300/- in the pay scale of Rs.6500-10500/- granted by 5th Pay Commission, corresponding to pre-revised basic pay of Rs.2375 in the old pay scale of Rs.2000-3500 and accordingly revise his retiral benefits including Gratuity, leave encashment, monthly pension from 1.1.1996 and pay arrears accruing therefrom forthwith;

b) Direct Respondents to pay interest at the rate of 18% p.a. for delayed payment of revised retiral benefits till the date of payment;

c) Award costs of the application; and

d) Pass such further or other order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

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FR 56 (A) reads as follows:

"Except as otherwise provided in this Rule, every Government servant shall retire from service on the afternoon of the last day of the month in which he attains the age of fifty eight years."

3. In the case of Venkatram Rajagopalan (supra), the following question of law had been considered:-

"Whether a Government servant completing the age of his superannuation on 31.3.1995 and relinquishing charge of his office in the afternoon of that day is deemed to have retired from service on superannuation with effect from 31.3.1995 itself or with effect from 01.14.1995?

It was answered as follows:-

"A Government servant completing the age of superannuation on 31.03.1995 and relinquishing charge of his office in the afternoon of that day is deemed to have effectively retired from service with effect from 01.04.1995".

4. It has been stated on behalf of the applicant that his pay as on 31.12.1995 had been fixed at Rs.2375/- in the pre-revised pay scale of Rs.2000-3500. A government servant drawing a basic pay of Rs.2375/- in the pre-revised scale of Rs.2000-3500 had to be accorded basic pay of Rs.7300/- as on 1.1.1996 as per Annexure-B which is tabulated in CCS (Revised Pay) Rules, 1997. Applicant made representations Annexure-D, Colly dated 7.3.2003 and 29.9.2003 which have remained unresponded at the hands of the respondents.

5. Having regard to the contentions raised before me, I consider that ends of justice would be duly met if at this stage itself and without putting



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the respondents on notice, they are called upon to decide applicant's representations dated 7.3.2003 & 29.9.2003 by passing a detailed and speaking orders within a period of two months from the date of receipt of a copy of this order. Respondents while disposing of applicant's representations shall keep in mind the points made by the learned counsel of applicant as stated above. They are further directed to treat the present OA. as a supplementary representation. Ordered accordingly. Applicant shall have liberty on remaining aggrieved by the decision of the respondents. No costs.

V.K. Majotra

(V.K. Majotra) 10.3.04
Vice-Chairman(A)

cc.