

5

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A.No. 10/93.

Date of decision 25-2-93

Shri G.D. Chaudhari ... Applicant

V/s

Union of India ... Respondents
and Others.

CORAM:

The Hon'ble Shri C.J. Roy, Member (Judicial)

For the Applicant ... In person

For the Respondents ... Shri N.S. Mehta, Counsel.

(1) Whether Reporters of local papers may be allowed
to see the Judgement ?

(2) To be referred to the Reporter or not ?

J _ U _ D _ G _ E _ M _ E _ N _ T

[Delivered by Hon'ble Shri C.J. Roy, Member (Judicial)]

This is an application filed under Section 19
of the Administrative Tribunals Act, 1985 by the appli-
cant for grant of dearness relief on personal pension
along with the full pension already being paid as
sanctioned by the Government from time to time with
arrears of dearness relief from 1.1.1986 till date.

2. The facts of the case ^{are} that the applicant
retired from the Central Government service as

Section Officer on superannuation on 31.12.1985 (A.N.).

6

He was granted full pension of Rs. 925/- and personal pension of Rs. 96/- i.e. a total of Rs. 1,021/-.

3. The personal pension (Rs. 96/-) has been granted to all such employees who retired from service after 31.3.1985 and before 1.1.1986, the date from which the recommendations of the 4th Pay Commission were made effective. As the applicant retired before 1.1.1986 i.e. on 31.12.1985 (A.N.), the personal pension had been granted to him. The applicant has further alleged that the dearness relief payable to him on pension is not paid to him on personal pension and that this is illegal, unconstitutional and violative of Article 14 of the Consitution. The 4th Pay Commission recommended that as the number of pensioners granted personal pension is small, the Government should consider paying a lump sum amount in lieu of personal pension on the basis considered appropriate, in order to rationalise and simplify the pension structure, and it was also decided that the personal pension will continue to be paid every month but it will not qualify the dearness relief beyond CPI 608 over which point, it has already been determined. The applicant ^{it's} ~~signed~~ for 4th Pay Commission and its recommendations and had made representation on 26.3.1992 but that was rejected vide letter No.

7

42/4/92 P&PW(G), dated 27th April, 1992 and 30th June, 1992. The applicant claims that personal pension is nevertheless a part and parcel of pension and cannot be differentiated for grant of dearness relief from the full pension to be granted to the payee, so he claims that the dearness relief on personal pension of Rs. 96/-. Hence, this application.

4. Annexure-I is the application. Annexure A-II is the rejection letter. Annexure-III is another rejection letter. Annexure IV is Pay and Accounts Office communication No. PAO/DOE/Pay I/Sh. G.D. Chaudhri/Pen/2387-90 dated 28.01.1986 and Annexure V is the Government decision on Fourth Pay Commission's Report on Pension (Part I).

5. The respondents have filed a counter stating that as part of rationalisation and simplification of pension structure for pre-1.1.1986 pensioners, the relief admissible upto CPI 608 and those recommended by the 4th Central Pay Commission have been consolidated with the basic pension due on 31.12.1985 in every case and the total amount so arrived at is regarded as pension/family pension with effect from 1.1.1986.

8

The personal pension was introduced for the first time in 1985 in order to compensate the pensioners who retired from Service between 31.3.1985 and 31.12.1985.

The employees who retired between 31.3.1985 and 31.12.1985 had their pension computed after taking into account Dearness Pay upto average CP I 568. Wherever pension calculated after taking into account Dearness Pay upto CPI 568 happens to be less than the pension admissible after taking into account dearness pay upto CPI 320 plus Dearness Relief between CP I 320 and CPI 568, the difference was allowed as personal pension. The 4th Pay Commission recommended that the personal pension does not qualify for Dearness Relief.

6. The respondents have further stated that no additional relief was recommended by the Fourth Pay Commission for the employees retiring between 31.3.1985 to 31.12.1985 for the reasons that employees retired between 31.3.1985 to 31.12.1985 had already been given benefits of merger of D.A. at CP I 568 for pensionary benefits and graded relief in their case generally provide neutralisation of more than 100%. They further stated that as per Annexure III, the pensioners who are in receipt

9

of the personal pension will continue to get the same as a separate element and the personal pension will not be merged in the consolidated pension nor will it qualify for dearness relief. Based on above rule position, the request of Shri Chaudhary was turned down.

7. They further state that as a result of merger of DA/ADA upto average CPI 568, a higher gratuity amount had become available to the pensioners who retired between 31.3.1985 to 31.12.1985, while the Pay Commission had recommended additional relief in the case of those retired prior to 31.3.1985, it had not recommended any relief in the case of persons who retired between 31.3.1985 to 31.12.1985 on the ground that they have already been given the benefit of merger of DA at CPI 568 for pensionary benefits and graded relief in their case generally provided neutralisation more than 100 per cent, and further that merger of the personal pension with pension as on 1.1.1986 will not totally eliminate the drop in pension. Hence, they pray for the dismissal of the petition. They have also filed O.M.No.2/1/87-PIC-I, dated 16.4.1987.

8. The applicant also filed a rejoinder more or less

asserting the same points and reiterating the same condition.

9. I have heard the applicant in person and the Learned Counsel, Shri N.S. Mehta ^{for respondents} and perused the records.

The short point in this case is whether the relief as claimed by the applicant that dearness relief be granted on personal pension and arrears be given to him.

It is an admitted case that the applicant retired on 31.12.1985 (AN). The Fourth Pay Commission's report is applicable for people who were working in the office on 1.1.1986. The applicant had not worked on 1.1.1986 but it is clear that he retired on 31.12.1985 (AN).

The personal pension was first time introduced in 1985 with an object to compensate the pensioners who retire from service between 31.3.1985 and 31.12.1985. The Fourth Pay Commission recommended the Government to consider paying a lump sum amount in lieu of the personal pension.

This recommendation could not be accepted by the Govt. due to financial constraint and it was decided that personal pension may continue as a separate element and not to be merged w.e.f. 1.1.1986. So it is clear that

Fourth Pay Commission ~~had not recommended~~ ^{has not resulted in giving} dearness relief on personal pension and this pension is given to employees

who are retired between 31.3.1985 and 31.12.1985 for the reasons that employees retired in that period have already been given the benefits of merger of D.A. at 100 per cent.

10. According to instruction in para 6(2) of Government of India, Ministry of Personnel, Public Grievance and Pension's O.M. No. 2/1/87-PIC.I, dated 16th April, 1987, which is reproduced below -

" Some of the existing pensioners who retired between 31.3.1985 to 31.12.1985 are in receipt of personal pension. The said personal pension will continue to be granted as a separate element and will not be merged into the pension as consolidated above."

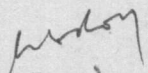
it is clear that personal pension will continue as a separate element and the personal pension will not be merged. The Fourth Pay Commission has not recommended any relief in the case of persons who retired between 31.3.1985 and 31.12.1985 but it recommended additional relief to the persons retired prior to 31.3.1985.

11. In view of the observations made supra, I consider that the applicant has not made out any

case. The applicant has not worked on 1.1.1986.

The Fourth Pay Commission's recommendations came into effect w.e.f. 1.1.1986 but the applicant had retired on 31.12.1985 (A.N.). The Fourth Pay Commission has kept the personal pension as separate element.

12. For the reasons discussed above, the applicant has not made out any case of arbitrariness, malafides or any discriminatory attitude. Therefore, I dismiss the petition with no order as to costs.


(C.J. Roy)
Member (Judicial)