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| 7/1  |               | <p style="text-align: right;">15</p> <p>M.A.490/94 IN <span style="float: right;">M</span><br/> <u>O.A.1047/93</u> <span style="float: right;">7.10.94</span></p> <p>Present : Shri K.L. Bhandula, Counsel<br/> for the Applicant<br/> <br/> Shri M.L. Verma, Counsel<br/> for the Respondents.</p> <p>In this M.A.No.490/94 arising out<br/> of O.A.No.1047/93 Shri H.R. Sindhwani,<br/> Retd. Senior Supervisor Grade-I, Central<br/> Water Commission, has prayed for a direction<br/> to the respondents for correct finalisation<br/> of the applicant's pension case and actual<br/> payment of dues with interest beyond six<br/> months i.e. from 1.09.93 within a specified<br/> term.</p> <p>2. In that O.A. the applicant had stated<br/> that he joined the C.W.C. on 14.10.1963<br/> and was transferred to the Salal Hydro<br/> Electric Project Office, Jyotipuram on<br/> 14.04.1974. Subsequently that P)roject<br/> was handed over to the National Hydro-Electric<br/> Corporation (N.H.P.C.) on agency basis.<br/> The employees were considered either to<br/> continue as govt. servants w.e.f. 1.04.83<br/> or were absorbed. The applicant contends<br/> that he continued as a government servant,<br/> as no action was taken on his prayer for<br/> absorption only if his previous government<br/> service was taken into account. Eventually,<br/> he and Shri Romain singh filed O.A.No.613/87<br/> in May, 1987 for absorption w.e.f. 1.04.83,</p> |

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|      |               | <p data-bbox="990 282 1088 317" style="text-align: center;">- 2 -</p> <p data-bbox="613 344 1510 1967">which was disposed of by judgement dated 23.09.92, in which it was held that two applicants continue to be Government servants on transfer to N.H.P.C. till they were absorbed there or who repatriated to their parent cadre in the C.W.C. The respondents were directed either to repatriate the applicants to the C.W.C. or to absorb them in N.H.P.C. with consequential benefits. The applicant states that he opted for repatriation to his parent cadre. Meanwhile, the Project Authorities had issued office Order dated 17.12.92 (Annexure A-III) stating that consequent upon attaining the age of superannuation, the applicant would retire from the services of the Salal Project w.e.f. 28.02.1993 and, therefore, would stand relieved from that Project on 28.02.93 (A.N.). The applicants pension papers were duly completed and forwarded by the Project Authorities to the C.W.C. on 22.01.93 but according to him the respondents had not released his retiral benefits, and he therefore prayed for immediate release of the same.</p> <p data-bbox="638 2037 1518 2352">3. In their reply to the O.A. the Respondents had stated that the applicants' pension papers along with his service book had been forwarded to the Pension Payment Authority and pending finalisation of his</p> |



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|      |               | <p data-bbox="1023 255 1120 295" style="text-align: center;">- 3 -</p> <p data-bbox="633 309 1526 819">pension case, 100% provisional pension @ Rs.1029/- p.m. for six months w.e.f. 1.03.93, and 100% provisional gratuity of Rs.29,925/- (after deducting Rs.4000/- on account of Transfer T.A. due and withholding of Rs.1000/-) was sanctioned to him under Rule 64 CCS (Pension) Rules by Order dated 8.10.93 (Annexure-I).</p> <p data-bbox="633 873 1542 1787">4. The O.A. was heard and disposed of by Order dated 1.11.93. The contents of Order dated 8.10.93 were noted and the Respondents were directed to release the sanctioned sum within 4 weeks, failing which interest @ 12% per annum would accrue. The respondents were also directed to settle the issue regarding payment of pension beyond 31.08.93 within 2 months. As the applicant had disputed the quantum of provisional pension, he was given the liberty to file an M.A. in case he found the settlement of dues was not made in accordance with the Rules.</p> <p data-bbox="649 1841 1559 2419">5. On 8.02.94 the applicant filed M.A. No.490/94, claiming pension on the basis of pay drawn by him during the last 10 months of his service beyond six months and also provisional pension calculated on that basis. He filed a statement with the M.A. (Annexure A-IV) claiming pensionary deposits upto 31.12.93 which amounted to Rs.75000/- and stated that in addition</p> |

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|      |               | <p style="text-align: center;">- 4 -</p> <p>to this amount pension from 1.1.1994 was also due besides D.A. on the pension. He further alleged that <del>he</del><sup>1</sup> had received provisional pension upto 31.08.93 and provisional gratuity as indicated in order dated 24.11.93 only on 18.11.93 but further pension from 1.9.93 and commuted value even on lesser quantum of pension had not been paid to him. He therefore prayed for correct finalisation of his pension case &amp; actual payment of pension dues beyond six months i.e. from 1.9.93 within a specified time.</p> <p>6. The respondents in their reply to that M.A. have stated that the O.A. has already been decided on 1.11.93 and the applicant is now trying to obtain through the M.A. what he could not obtain through the O.A. If he was dis-satisfied with the judgement, he could have filed a Review Petition or a S.L.P. but he has not done so. It has been averred that all the pensionary benefits legally admissible to the applicant has been paid to him including final payment of pension, D.C.R.G. computation of pension. It has been stated that in pursuance of the judgement dated 23.09.92 of the Tribunal in O.A.No.613/87 and consequent to the option exercised by the applicant on 11.01.93 he is deemed to have been repatriated to the C.W.C.</p> |



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|      |               | <p style="text-align: center;">- 5 -</p> <p>and his pension has been calculated with reference to the pay notionally arrived at in the pay scale of T.T.C. (Instructor) i.e. Rs.425-640/Rs.1400-2300 (revised) till his retirement on superannuation w.e.f. 28.02.93, as the post of T.T.C. (Instructor) in the C.W.C. were abolished with the closure of T.T.C. in the year 1974. It has been stated that the applicants pension has rightly been fixed at Rs.1029/-p.m. and the pensionary benefits have accordingly been calculated and paid to him. His claim for enhance of pension from Rs.1029/- to Rs.1287/- as contained in his statement at Annexure 4 is untenable and it is stated that this M.A. is devoid of merit and liable to be dismissed.</p> <p>7. In the rejoinder to the reply, the applicant has again alleged that the reply furnished by the respondents is vague, and he has stated that they have illegally given him pensionary benefits at the pay as fixed on 1.01.86 while he retired on 28.02.93 and is, therefore, entitled to pensionary benefits at emoluments drawn by him during the last 10 years.</p> <p>8. I have considered this matter carefully. Although, respondents state that they have granted pension and pensionary benefits to the applicant in terms of the CCS(Pension)</p> |

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|      |               | <p data-bbox="1003 290 1101 325" style="text-align: center;">- 6 -</p> <p data-bbox="607 352 1490 1768">rules, which particular rule has been invoked has not been stated. The manner in which the pay of the applicant has been notionally arrived at in the pay scale of T.T.C. (Instructor), although those posts were abolished in 1974 itself, has also not been made clear. On the other hand, the applicant has also not stated clearly in his M.A. how he is entitled to pensionary benefits on the basis of his 10 months emoluments in the N.H.P.C. During hearing, Shri Bhandula for the applicant had claimed that the case was on all fours <sup>with the</sup> <del>that</del>, the case of <sup>one in</sup> Shri P.S. Assudani <sup>in but in</sup> <del>no</del> details in support of the same have been filed, and the only reference to Shri Assudanis' case is contained in the judgement dated 23.09.92 in O.A. No.613/87, from a perusal of which, all that appears is that although working in the N.H.P.C., he was held to have continued to <sup>be</sup> a government servant until his superannuation on 31.07.87.</p> <p data-bbox="607 1870 1490 2300">7. Further more, it appears that although, the applicant had submitted a representation to the Chairman C.W.C. <sup>on 4</sup> 5.01.94 for payment of pension at enhanced rates etc in which he claimed an amount of Rs.75000/- was due to him, <sup>in</sup> <del>No</del> reply has been given, or <sup>is</sup> none at any rate <sup>on</sup> record.</p> |



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|      |               | <p style="text-align: center;">- 7 -</p> <p>8. Under the circumstances, this M.A. is disposed of with the following directions :-</p> <p>(i) It will be open to the applicant to make a detailed and self-contained representation to Respondent No.2 highlighting each of his claims in detail and specifying the rules, precedents etc in respect of <sup>each of</sup> these claims;</p> <p>(ii) On receipt of the same, Respondent No.2 will dispose of such representation by means of <sup>a detailed and</sup> a speaking order on each of <sup>the claims, within 3 months from</sup> the date of its receipt;</p> <p>(iii) If any grievance survives thereafter, the applicant, after exhausting the departmental remedies available to him, will be at liberty to agitate the matter in accordance with law, if so advised. No costs.</p> <p style="text-align: right;"> <i>S.R. Addige</i><br/>           (S.R. ADDIGE)<br/>           MEMBER (A)         </p> <p>SSS</p> |