

(17)

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 29th day of March, 2000.

Original Application no. 130 of 1996.

Hon'ble Mr. M.P. Singh, Administrative Member.

B.K. Agarwal, S/o Late Shri Hari Krishna Agarwal,
R/o 37, Nanakganj, Sipri Bazar,
Jhansi.

... Applicant

C/A Sri M.P. Gupta
Sri S.K. Mishra

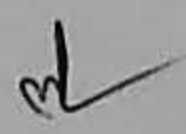
Versus

1. The Union of India through the General Manager,
Central, Railway, Bombay.
2. The Senior Divisional Account Officer, Central
Railway, Jhansi.

... Respondents.

C/R Sri G.P. Agarwal.

...2/-



// 2 //

ORDERHon'ble Mr. M.P. Singh, Member-A.

The applicant is aggrieved by wrong re-fixation of his pension under letter dated 16.04.1987, issued by Department of Pension and Pensioner's Welfare.

2. The brief facts of the case are that the applicant retired from the post of SDO on 31.12.1984 from the office of DRM (W) Central Railway, Jhansi. On his retirement his monthly pension was fixed at Rs. 582/- after commutation. Thereafter, on the basis of recommendation of 4th Pay Commission, Department of Pension and Pensioner's Welfare, issued instruction vide O.M. no. 2/1/87-PIC-1 dated 16.04.1987 to re-fix the pension of those Government Servant who retired before 31.03.1985. According to the applicant his pension should have been fixed under the provision of paragraph 4.1 (B) (iii) (b) of the aforesaid O.M. because he retired between 31.01.1982 ^{and} 31.03.1985 and had not ~~obtained~~ ^{opted} for merger of additional D.A. up-to CPI 320 in terms of Ministry of Finance letter dated 08.04.1982. When the applicant came to know about the wrong fixation of his pension in April 1995, he made a representation to respondent no. 2 on 29.06.1995 ^{thereafter}. But he did not receive any reply. He has, therefore, filed this O.A. & sought relief seeking direction to re-fix his pension @ Rs. 1351 per month

cl

// 3 //

with effect from 01.01.1986 under paragraph 4.1(b) of the table annexed with the O.M. dated 16.04.1987 with all consequential benefits like arrears etc.

3. The respondents in their reply have mentioned that as per paragraph 6 of letter dated 08.04.1982 of Ministry of Finance, the applicant was required to exercise his option within 6 months before retirement. The applicant failed to exercise his option within stipulated period. His pension^{ok} has, therefore, been correctly fixed under paragraph 4 (i) (C) of the O.M. dated 16.04.1987.

4. Heard Shri M.P. Gupta learned counsel for the applicant & Shri G.P. Agarwal learned counsel for the respondents, and perused the record. Paragraph 6 of O.M. dated 08.04.1982 reads as follows:-

"The option may be exercised within six months before retirement. Government servants who have retired on or after 31.01.1982, but before the issue of these orders, may exercise their option within six months from the issue of these orders. The option once exercised shall be final. Those who fail to exercise the option within the stipulated period will be deemed to be governed by para 4 (b) above."

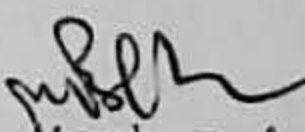
5. From the above paragraph 6 of O.M. dated 08.04.1982, it is clear that those who failed to exercise

// 4 //

the option will be deemed to be governed by paragraph 4.1 (b). It is an admitted fact that the applicant did not exercise his option within the stipulated period. His pension is, therefore, to be refixed under the provisions of Para 4.1 (C) of CM dated 16.04.1987 issued by Department of Pensions & Pensioner's welfare.

6. In the light of above facts, the pension of the applicant has correctly been fixed by the respondents in terms of paragraph 4.1 (C) of CM dated 16.04.1987. The O.A., is therefore, dismissed.

7. No order as to costs.


Member-A

/pc/