

OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD**

(THIS THE 30th DAY OF JULY, 2009)

PRESENT :

HON'BLE MR. JUSTICE A.K. YOG, MEMBER-J

ORIGINAL APPLICATION NO. 429 OF 2005
(U/s, 19 Administrative Tribunal Act.1985)

Murlidhar Patel, Son of Late Ram Nath, Resident of 510/2 Rama
Nand Nagar, Allahpur, Allahabad.

.....Applicants

By Advocate : Shri R.C. Sinha

Versus

1. Union of India, Ministry of Defence through its Secretary,
New Delhi.
2. Principal Controller of Defence (Pension), Allahabad.
3. Chief Engineer Eastern Command Kolkata Engineer Branch
Fort-William (Fort), Kolkata.
4. Assistant Garrison Engineer (Independent) Airforce Purnew
Post Chunarpur, Airfield District-Purnia Bihar.

..... Respondents

By Advocate : Shri N.C. Nishad

ORDER

(DELIVERED BY: JUSTICE A. K. YOG- MEMBER-JUDICIAL)

1. Heard learned counsel for the parties. Perused the pleadings
and the documents on record.

2. The applicant/ Murlidhar Patel has filed this OA claiming
following reliefs:-

“i) Issue order or direction setting aside the letter dated
2.12.2004 issued by respondent no.2 and its

Dec.

communication letter dated 30.12.2004 issued by respondent no.4.

- ii) Issue a order or direction to respondents to pay the amount of gratuity, Leave encashment and Group Insurance to the applicant along with 18% interest on delayed payment of above amount.
- iii) Issue order or direction to the respondents not to recovery 1/3rd Pension of the applicant in view of letter dated 2.12.2004 of respondent no.1 and 2."

3. This OA can be disposed of on a short point namely violation of Principles of Natural Justice.

4. Para 4.7 of the OA reads as follows:-

"That the applicant received letter dated 13.12.2004 issued by respondent no. 2 on 15.1.2005 by which the qualifying service of applicant was reduced 26 years 4 months and 24 days instead of 35 years and 25 days as was mentioned in the letter dated 21.08.2003 by which the provision pension to the applicant was sanctioned by respondent no. 2 as such the reduce the amount of pension of the applicant on the basis of 26 years 4 months and 24 days exparte without giving any opportunity of hearing to the applicant fixing amount of Basic Pension to the time of Rs. 5500/- per month where as the provisional pension was granted fixing Rs. 6900/- basic plus D.A."

5. Respondents have put in appearance and contest OA by filing following counter reply sworn by one Anil Krishna Sarkar (the then JEEIM. Para 4.7 of the OA has been replied vide para 9 of the counter affidavit which reads:-

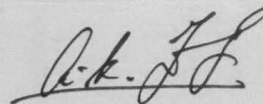
"That the contents of paragraph Nos. 4(V), (VI), & (VII) of the original application needs no comments."

Dr.

6. In view of the above status of the pleadings, it is admitted to the respondents that the impugned order reducing pension of the applicant has been passed behind his back without giving notice or opportunity of hearing which adversely effects or prejudice right of a person, cannot be sustained and Principles of natural justice require that a person before he is punished or condemn must be heard in defence.

7. Consequently, the impugned order dated 30.12.2001 is a nullity since passed in breach of principles of Natural Justice (i.e. behind the back of the applicant) therefore, cannot be sustained in law.

8. In the result, impugned order dated 30.12.2001 is hereby set aside, OA is allowed. No Costs.


Member-J

/ns/