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**Central Administrative Tribunal
Jammu Bench, Jammu**

O.A. No.848/2020
M.A. No.1430/2020

Monday, this the 18th day of January, 2021

(Through Video Conferencing)

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Pradeep Kumar, Member (A)**

Om Parkash, Age 60 years, S/o Sh. Sita Ram, R/o Ward No. 6,
Tehsil Nowshera, District Rajouri. Pincode : 185151.

..Applicant

(Mr. M I Qureshi, Advocate)

Versus

1. Accountant General (A&E), J&K UT of J&K, UT Of J&K,
Jammu/Srinagar Through Senior Account Officer,
Jammu/Srinagar.
2. UT of J&K through Commissioner/Secretary to
Government, Animal and Sheep Husbandry Department,
Civil Secretariat, Jammu, Pincode : 180001.
3. Director, Sheep Husbandry, Panama Chowk, UT of
Jammu and Kashmir, Jammu.
4. Sheep & Wool Development Officer, Kalakote, District
Rajouri, UT of Jammu and Kashmir.

...Respondents

(Mr. Raghu Mehta, Senior Central Government Standing
Counsel for respondent No.1 and Mr. Sudesh Magotra, Deputy
Advocate General for respondent Nos. 2 to 4)

**O R D E R (ORAL)****Mr. Justice L. Narasimha Reddy:**

The applicant retired as Flock Inspector from the Animal Husbandry Department on 30.04.2020. Since his pension was not released, he made a representation. The pension papers, together with the representation of the applicant, seem to have been forwarded to the Office of the Accountant General (A&E), Jammu & Kashmir, 1st respondent herein, through order dated 17.07.2020. The Office of the Accountant General (A&E) took exception to certain benefits extended to the applicant while in service, and accordingly, came to the conclusion that the applicant was drawing excess pay and allowances w.e.f. 01.01.1999. On that basis, the respondents directed that the pay of the applicant must be re-fixed correctly and excess pay and allowance drawn by the applicant, must be recovered from the pensionary benefits. This OA is filed challenging the order dated 17.07.2020.

2. The applicant contends that there was absolutely no justification for the respondents in issuing the impugned order, that too, without issuing notice to him. It is stated that the respondents have proceeded without any basis and adversely affected his rights.

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3. We heard Mr. M R Qureshi, learned counsel for applicant, Mr. Raghu Mehta, learned Senior Central Government Standing Counsel for respondent No.1 and Mr. Sudesh Magotra, Deputy Advocate General for respondent Nos. 2 to 4, through video conferencing.

4. The applicant retired from service on 30.04.2020 with basic pay of Rs.55,500/- and gross total salary of Rs.72,091/-. In case, the respondents were of the view that there was any defect or anomaly in the pay structure of the applicant, they were required to put the applicant on notice before arriving at any conclusion. However, the impugned order was issued straightway indicating that the applicant has drawn excess pay and allowance w.e.f. 01.01.1999. It was also directed that the same must be recovered from the pensionary benefits of the applicant. Such an approach is totally impermissible in law.

5. On the short ground that the impugned order was not preceded by any show cause notice, we allow the OA and set aside the impugned order. We direct the respondents to issue show cause notice, if any, to the applicant, within four weeks from the date of receipt of a copy of this order. If such a notice

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is not issued within that time, the pensionary benefits of the applicant shall be released within four weeks thereafter. The subsequent developments, if any, shall also be taken into account.

6. M.A. No.1430/2020 shall stand disposed of.

There shall no order as to costs.

(Pradeep Kumar)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

January 18, 2021

/sunil/dsn/sd/shakhi