

Central Administrative Tribunal Jammu Bench, Jammu



T.A. No.6194/2020
(S.W.P. No.274/2014)

Thursday, this the 01st day of April, 2021

(Through Video Conferencing)

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

Nazir Ahmad Zarger (Aged 59 yrs)
S/o Assadullah Zargar
R/o, Hassibhat, Rainawari-Srinagar.

..Applicant
(Mr. Altaf Haqani, Advocate)

VERSUS

1. State of Jammu & Kashmir through
Commissioner/Secretary to Govt. Power
Dev. Department, Civil Sectt. Jammu.
2. Chief Engineer, Electric Maintenance and
RE Wing, Kashmir (Convener, Divisional level DPC
(PDD/PCC)
3. Superintending Engineer
EM and RE Circle, Srinagar.
4. Executive Engineer
Electric Division-II, Srinagar.
5. Sr. Accounts Officer, Pension-I Office of
Accountant General, J&K, Srinagar.

..Respondents
(Mr. Rajesh Thappa, Deputy Advocate General)

ORDER (ORAL)

Mr. Justice L. Narasimha Reddy:

The applicant worked as Head Assistant of Electric Division-II Srinagar in EM & RE Wing, Kashmir. While in



service, he was extended the benefit of the pay scale of Rs.5000-8000 (pre-revised). He retired from service on 28.02.2013. In the context of working out his pensionary benefits, the service record was forwarded. However, the Chief Engineer, EM & RE Wing, Kashmir passed an order dated 03.02.2014, stating that the benefit of pay scale of Rs.5000-8000 (pre-revised), that was extended to the applicant, is revoked *ab initio*. Challenging the same, the applicant filed SWP No.274/2014 before the Hon'ble High Court of Jammu & Kashmir. The High Court passed an interim order, staying the operation of the impugned order.

2. In their counter affidavit, the respondents stated that the impugned order was passed on the objection raised by the Office of the Accountant General, Jammu & Kashmir.
3. The SWP has since been transferred to the Tribunal in view of reorganization of the State of Jammu & Kashmir and renumbered as T.A. No.6194/2020.
4. Today, we heard Mr. Altaf Haqani, learned counsel for applicant and Mr. Rajesh Thappa, learned counsel for respondents.
5. It is a matter of record that the applicant was extended the benefit of pay scale of Rs.5000-8000 (pre-revised) while he was

in service. It is not uncommon that the permissibility or otherwise of the various benefits, extended to an employee during the course of employment, are verified at the stage of retirement, for the purpose of determining the pensionary benefits. It appears that the Office of the Accountant General, Jammu & Kashmir raised objection as to the extension of benefit of pay scale of Rs.5000-8000 (pre-revised) to the applicant. Even if that is true, the concerned authority is required to put the applicant on notice. It is only after hearing the applicant, that any final order can be passed, either revoking or modifying the pay scale. The impugned order is liable to be set aside on the sole ground that it is not preceded by any notice.

6. We, therefore, allow the T.A., setting aside the order dated 03.02.2014, but leaving it open to the respondents to issue notice to the applicant and pass appropriate orders, and thereafter to re-determine his pensionary benefits. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

April 1, 2021
/lg/sunil/jyoti/vb/

