

Open Court.

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD

Civil Contempt Application No. 200 of 2003.

In

Original Application No.721 of 1994.

Allahabad this the 04th day of October, 2004.

Hon'ble Mr. Justice S.R. Singh, V.C.

Hon'ble Mr. D.R. Tiwari, A.M.

J.P. Srivastava aged about 88 years
Son of late Mahesh Nandan Srivastava
Retired Senior Civil Engineer Railway
Electrification Resident of C-41 Kareilly,
Allahabad.

.....Applicant.

(By Advocate : Sri R.K. Nigam)

Versus.

1. R.K. Singh,
Chairman, Railway Board,
Rail Bhawan, New Delhi.
2. I.P.S. Anand,
General Manager,
North Central Railway,
Nawab Yusuf Road, Allahabad.

.....Respondents.

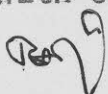
(By Advocate : Sri P Mathur)

O_R_D_E_R_

(By Hon'ble Mr. Justice S.R. Singh, V.C.)

Heard Sri U Nath holding brief of Sri R.K. Nigam
learned counsel for the applicant and Sri P Mathur
learned counsel appearing for the respondents.

2. The Contempt application has been instituted with
the allegation that the order passed by the Tribunal
dated 21.05.2004 passed in O.A. No.721 of 1994 J.P.
Srivastava Vs. Union of India and others has not been
complied with. The applicant, it is not disputed, retired on
superannuation with effect from 30.11.1977 while he was

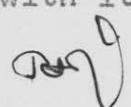


working as Divisional Engineer on ad hoc basis. It is not disputed that while officiating as Divisional Engineer on ad hoc capacity he was granted senior scale of pay and at the time of his retirement he was actually being paid the salary at the rate of Rs.1600/- per month. The question was whether the applicant's pension should be fixed emolument he was drawing as ad hoc Divisional Engineer or on the basis of emoluments admissible to the post in junior scale from which he was given ad hoc promotion to the post of Divisional Engineer. Railway, it appears, permitted to retain the pay of Rs.1600 per month and accordingly the Tribunal directed the respondents to fix his pension on the basis of actual salary drawn by the applicant on the last 10 months i.e. on the basis of salary paid to him during the last 10 month @ Rs.1600/-. The operative part of the order reads as under :

"In view of the circumstances mentioned above and in view of the fact that the Railway Board permitted the applicant to retain the pay of Rs.1600/- actually drawn by him, his pension should have been fixed on the basis of that pay. The O.A. is therefore, allowed. The impugned order is quashed. The respondents are directed to fix his pension on the basis of actual salary drawn by the applicant on the last 10 months i.e. Rs.1600/- per month. This order may not be followed as a precedent because of the special circumstances under which the said higher pay was allowed to be retained by the applicant and also keeping in view the fact that the applicant is now 85 years old and cannot be further harassed by further litigation. The arrears in accordance with the above order may be paid to the applicant within a period of 4 months from the date of copy of this order is filed. No order as to costs".

3. The applicant filed contempt petition No.200/03 with the allegation that the order dated 21.05.2002 passed by the Tribunal in O.A. No.721 of 1994 was not complied with. The Tribunal dismissed the said contempt petition and discharged the notices in terms of following orders:-

"In pursuance of the direction of this Tribunal the respondents have now re-fixed the pension of the applicant vide orders dated 14.11.2002 (CA-I, CA-II alongwith its encloser) and have given a direction to



Manager, Punjab National Bank to make the payment of the arrears of pension. The direction given by this Tribunal have been implemented by the respondents by refixing the pension of the applicant and also by directing the Bank to pay the arrears of the pension. Thus the direction given by the Tribunal have substantially been complied with by the respondents. CCP No.210/02, is therefore, dismissed and the notices are discharged. However, the applicant is at liberty to approach this Tribunal, in case he still feels aggrieved".

It is thus evident that the direction given by the Tribunal had been substantially complied with. However, it has been contended by learned counsel appearing for the applicant that despite direction, if any, to the Manager, Punjab National Bank given by Railway Administration, the applicant has not been actually paid arrears of pension as per direction given by the Tribunal.

4. It may be pertinently observed that the revised pay slip in compliance with the C.A.T's orders passed in original application No.721 of 1994 was issued on 12.11.2002. The remarks column of which reads as under :-

- "1. Pay revised as per Hon'ble CAT/Alld judgement on O.A. No.721/94 on 21.5.2002 to retain the actual pay drawn by the officer @ Rs.1600/- p.m. at the time of his retirement.
2. GM (P)'s letter of sanction No.726-E/353-III/EIA dated 11.11.02. The service statement may be treated as modified accordingly".

5. Learned counsel appearing for the Railway Administration has invited our attention to letter dated 14.11.2002 issued by Headquarters Officer Baroda House, New Delhi addressed to Manager, Punjab National Bank, Civil Lines, Allahabad in respect of revision of pension of the applicant. The letter dated 14.11.2002 reads as under:-

"Northern Railway

HEAD QUARTERS OFFICE
BARODA HOUSE, N. DELHI

No.-HQ/PEN/01782743.

Date 14/11/2002

Manager,
Punjab National Bank
Civil Lines, Allahabad U.P.



Subject: Revision of Pension of Sh. Jamuna Prasad Srivastava
Ex. SEN/RE of Northern Railway drawing Pension from
your Civil Lines Br.A/C No.12052.

Reference: PPO No. 01782743 Dt. 31/03/1978, 31/03/82 &
0178010098 Dt. 7/99.

Due to change in emoluments competent authority has
accorded sanction for payment of revised pension to Sh.
Jamuna Prasad Srivastava Ex. SEN/RE retired on 30.11.1977
as under:

1. His monthly pension has been revised from Rs.561/- to
Rs.655/- P.M. from 01/12/1977.
2. Out of Rs.561/- a sum of Rs.185/- has already been
commuted resulting in residual pension Rs.376/-
(561-185) from the date of payment of com. value of you
An additional sum of Rs.33/- has now been commuted,
com. value amounting to Rs.4142.16 (Rs. Four Thousand
One hundred Fourty Two & paisa Sixteen only) may be
paid at your end and pension be further reduced to
Rs.437/- (Rs.655-218) from the date of com. value paid
by you. Relief will be admissible on original pension
Rs.655/- P.M.
3. Difference of gratuity amounting to Rs.2437.50 (Two
Thousand Four Hundred Thirty Seven & Paisa Fifty only)
also be paid at your end.
4. Comuted portions of pension are to be restored after
fifteen years from the respective dates of payment of
Com. Value by your branch.
5. Rate of Family Pension have been changed as under:
@ Rs.192/- + RIP to Smt. Krishna Srivastava w.e.f.
15.11.1984.

Revision of Pension under IV P.C. :

1. The above pension/F/Pension required to be consolidated
in terms of Para 4.1 (a) of Dept. of Pension & Pensions
's Welfare O.M. No.2/1/87-PIC/I dated 16.04.87 at
your end w.e.f. 01/01/1986 Authority No.HQ/Pen/01782743
Dt. 14/11/2002 for Additional amount of pension w.e.f.
01/01/86 is enclosed.

Revision under Vth P.C. :

1. The Pension authorised vide PPA No.0178010098 Dt. 7/99
has now been revised @ Rs.5411/- P.M. + RIP w.e.f.
01/01/96. All terms and conditions of that authority
will remain same. (Copy of PPA 0178010098 Dt.15/11/2002
is enclosed)

All payments made on the authority of PPO Dt. 31/03/78,
31/03/82 & 7/99 should be adjusted while making revised
payment referred to.

This may be treated as urgent being a COURT CASE

Enl: As above (two)

For FA & CAO/Pension.


Copy to:

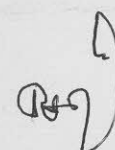
1. Sh. J.P. Srivastava, "Puneet" C-41
Kareli Housing Scheme, Guru Teg Bahadur Nagar
Allahabad 211016.
2. GM/P, Baroda House, New Delhi.

6. A perusal of the order aforestated would indicate that applicant's pension has been revised as per order passed by the Tribunal in the O.A. aforestated as well as as per revision of Pension under IVth Central Pay Commission and Vth Central Pay Commission. It has been submitted by learned counsel for the applicant that the payment to the applicant on the basis of letter dated 14.11.2002 has actually not been made. If that be so, it would be open to the applicant to approach the Financial Advisor & Chief Accounts Officer (Pension), Headquarters Office Baroda House, New Delhi for appropriate direction to the Concerned Bank after proper verification of his Bank Account and enquiries from the Manager, Punjab National Bank, Civil Lines, Allahabad. It is expected that the Bank will furnish the statement of Account to the applicant showing if the payment have been made to him as per letter dated 14.11.2002.

7. The contempt petition is, therefore, disposed of in terms of above direction.

No costs.


Member-A.


Vice-Chairman.

Manish/-