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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 491 OF 2008
CUTTACK, THIS THE 08th DAY OF April, 2011

Smt. Premalata Sahoo..... Applicant

Vs

Union of India & Others Respondents

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ?
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ?

(C.R.MOHAPATRA)
MEMBER (ADMN.)

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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

ORIGINAL APPLICATION NO. 491 OF 2008
CUTTACK, THIS THE ~~08~~ DAY OF April, 2011

CORAM :

HON'BLE MR. C.R.MOHAPATRA, MEMBER(ADMN.)

Smt. Premalata Sahu, aged about 64 years, W/o. Late Purusottam Sahu, Ex-Superintendent, At-Sriram Nagar, Plot No. 1012, Old Town, Bhubaneswar, Dist. Khurda.

.....Applicant

Advocate(s) for the Applicant- M/s H.N.Mohapatra, A. Samantray.

VERSUS

1. Union of India represented through the Chief Pay & Account Officer, Ministry of Finance, Govt. of India, Trikot-II, Complex (Behind Hotel Hyatt Regency), Bhikaji Cama Palace, New Delhi-110066.
2. Accountant General, A& E, Orissa, Bhubaneswar, At./P.O./P.S. Bhubaneswar, Dist. Khurda.
3. Assistant Chief Accounts Officer, Central Excise, Customs and Service Tax, Bhubaneswar, At/PO/PS Bhubaneswar, Dist. Khurda.
4. Treasury Officer, Special Treasury No.1, Bhubaneswar, At/PO/PS Bhubaneswar, Dist. Khurda.
5. Pay & Accounts Officer, Central Excise Customs and Servic Tax, Bhubaneswar, At/PO Bhubaneswar, Dist. Khurda.
6. Manager, State Bank of India, Main Branch, Bhubaneswar, At/PO/PS Bhubaneswar, Dist.Khurda.
7. Manager, State Bank of India, Old town Branch, Bhubaneswar, P.S. Lingaraj, Dist. Khurda.

..... Respondents

Advocates for the Respondents – Mr. U.B.Mohapatra.

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.491 OF 2008

Cuttack this the 2nd Day of December, 2010

CORAM:

HON'BLE SHRI M.R.MOHANTY, VICE-CHAIRMAN

...
Smt.Premalata Sahoo ...Applicant

-VERSUS-

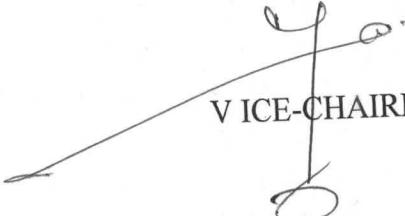
Union of India & Ors. ...Respondents

ORDER

1. Shri H.N.Mohapatra, learned counsel for the Applicant is present and Shri U.B.Mohapatra, learned SSC for Govt. of India is also present. In this case a reply has already been filed on behalf of Central Excise Organization (Respondent Nos. 3 and 5). A rejoinder has already been filed by the Applicant to the said reply of the Central Excise Organization.
2. The Treasury Officer (Res.No.4) has also filed a para-wise comment (not through the Government Advocate representing the State of Orissa) directly.
3. The State Bank of India (Old Town Branch) Bhubaneswar has not filed any reply in this case.
4. Send a copy of this order (along with a copy of the rejoinder and reply of the Treasury Officer) to the Deputy Commissioner, in the Office of Commissioner, Central Excise, Customs and Service Taxes, Bhubaneswar-1 requiring him to file a reply to the rejoinder within thirty days/by the next date.
5. Send copy of the replies (of Central Excise and that of the Treasury Officer, Bhubaneswar) and the Rejoinder, to the Manager of State Bank of India (Old Town Branch), Bhubaneswar (together with the copy of this order) requiring him to file a transparent reply in this case within the next thirty days/by the next date.

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6. Send copies of the Reply (of Central Excise) & Rejoinder to the Treasury Officer/Respondent No.4 (together with the copy of the order) requiring him to file a transparent (additional) Reply by the next date.
7. Shri U.B.Mohapatra, learned SSC for Govt. of India undertakes to file ~~extra~~^{an} copy of the reply (filed on behalf of the Central Excise & Customs) in course of the day. Shri H.N.Mohapatra, learned counsel for the Applicant undertakes to file two extra copies of the rejoinder in course of the day.
8. Registry to prepare four extra copies of the para-wise comments furnished by the Treasury Officer and supply one copy each to the counsel for the parties.
9. Call this matter on 17.1.2011 awaiting additional pleadings from the Respondents and those pleadings should be transparent in all respects.
10. Free copies of this order be also handed over to the learned counsel for the parties.


V ICE-CHAIRMAN

ORDER

HON'BLE MR.C.R MOHAPATRA, MEMBER(Admn.):

Applicant, aged about 67 years (presently) is the wife of Late Sri Purusottam Sahu, who retired as Superintendent of Excise under Commissioner, Central Excise and Customs, Bhubaneswar w.e.f. 31.11.1981. Applicant's husband was sanctioned pension vide PPO No. BBS/CCE/PAO/9/122 dated 21.10.1981. Unfortunately, the husband expired on 03.08.1998. After the death of her husband, the applicant was getting family pension from the Special Treasury-I, Bhubaneswar. By filing the present O.A., the applicant seeks the following reliefs:

"8(i).....direct the respondents to sanction the LTA undrawn revised pension of the husband of the applicant from 1.1.96 to 3.8.98 amounting of Rs. 18,720/- and revised undrawn family pension in favour of the applicant, P.P.O.No. 1677/Central from 4.8.98 to 30.4.2006 amounting Rs. 3,01,349/- and disburse the same in favour of the applicant;

(ii) That further direction be issued to pay 18% of accrued interest upon the aforesaid amount from the date of entitlement of the applicant.

(iii) And to allow the application with cost."

2. The claim of the applicant is that her husband had not got the LTA revised pension from 1.1.96 to 3.8.98 amounting to Rs.

18,720/- and revised family pension was not sanctioned in her favour w.e.f. 4.8.98 to 30.04.06, which amounts to Rs. 3,01,474/- Treasury Officer, Special Treasury at Bhubaneswar had informed the Accountant General, A & E, Orissa, Bhubaneswar for sanctioning of the arrear revised undrawn pension of the husband of the applicant as well as the revised family pension of the applicant. The Accountant General Office requested the Chief Pay and Accounts Officer, Ministry of Finance to accord sanction for the above amount in favour of the applicant. But the Chief Pay and Accounts Officer, Ministry of Finance returned the papers with the advice to take up the matter with the Central Excise and Custom under whom the husband of the applicant was serving. Thereupon, Assistant Chief Accounts Officer, Custom and Service Tax, Bhubaneswar directed the applicant to submit necessary documents to enable them to accord sanction. While the matter remained under correspondence between the Accountant General Office and the PAO of Central Excise and Custom, Bhubaneswar, the Main Branch and Old Town Branch of SBI came into the picture regarding availability of records/sanction of revised pension etc. The protracted inter-departmental correspondence having yielded no result in securing the aforesaid payment, the applicant has knocked at the doors of this Tribunal for redressal of her grievance.

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3. The Respondents have filed their counter, in which it has been stated that the husband of the applicant retired on 31.10.1981 from the Govt. service while working as Superintendent of Central Excise under the Collector, Central Excise, Customs, Bhubaneswar. In paragraph-6 of their counter, they have submitted that "for payment of pension to civil pensioner of Central Government w.e.f. 01.7.1976, pensioner had a choice to draw his pension either from the treasury or from the branches of the Public Sector Bank. The pensioner availing this facility will have to open a Saving Bank/Current Account in the bank of his choice. The concerned bank will automatically credit the pension including the arrears to the said account when it is due. Pensioner would be required to submit life certificate and non-employment certificate every year in November. According to instruction, the Pay & Accounts Officer, Central Excise & Customs, Bhubaneswar is the pension disbursing authority for this Department. Accordingly, after retirement of Shri Purusottam Sahoo, Ex-Superintendent of this Department, the Pay and Accounts Officer, Central Excise, Customs, Bhubaneswar vide his letter C.No.BBS/CCE/PAO/9/130/75/24591F dated 10.06.87 issued an authorization to AG (O) for payment of pension through Bank i.e. State Bank of India, Old Town Branch, Bhubanswar. Therefore, SBI, Old Town Branch is the pension disbursing authority in case of Late

P.Sahoo as per authorization of PAO. After death of Late P.Sahoo, as per pension Rule, the pension disbursing authority from whom, the deceased pensioner has been drawing pension shall authorize family pension to the widow. Hence, this department has no action to take". Vide paragraph 10 of the counter, the Respondents have stated that "the Revised Pension/Family Pension w.e.f. 01.01.96 has already been authorized by the Central Pension Accounting Office, Ministry of Finance, New Delhi, Govt. of India vide his authorization dated 15.11.07 authorizing SBI, Old Town Branch through Main Branch for payment. It has already been recorded in the PPO of the applicant vide P/8 of Annexure-I submitted by the applicant. Hence, no further sanction is required by this department". Respondents have taken a stand that after departmentalization of Account, the Commissioner, Central Excise, Custom and Service Tax is no way concerned with the payment/disbursement of pension etc. and after authorization of pension and family pension by the Central Pension Accounting Office no action is required to be taken by them.

4. The applicant has filed a rejoinder, in which it has been clarified that revised pension of the husband of the applicant was sanctioned w.e.f. 1.1.96. The husband of the applicant was drawing pension from State Bank of India, Old Town Branch, Bhubaneswar. He died on 3.8.98. But the sanction of revised pension was

communicated to State Bank of India on 5.11.98 i.e. after death of husband of applicant vide letter No. 1677/Central/142530/A2. By quoting the Treasury Rule-369 of Central Treasury Rules, the applicant in the rejoinder has submitted that sanction of the Head of Department is required for disbursement of the arrears, which was due to the applicant's husband. The applicant further submits that by issuing letter to the Sr. Accounts Officer, the Asst. Chief Accounts Officer, Central Excise, Customs and Service Tax, Bhubaneswar vide Annexure-12 washed its hands off on the plea of non-availability of records.

5. Respondent No.4, by filing a separate parawise comment have submitted that "one Premalata Sahu, wife of Late Purusottam Sahu was applied for sanction of family pension in her favour in S.B.I. Old Town Branch, Bhubaneswar on 14.02.2006 and the same was forwarded to the Treasury Officer, Special Treasury No.1, Bhubaneswar and the same was received by the Treasury on 23.3.2006. Subsequently, the Treasury Officer forwarded the same to the A.G. Orissa, Bhubaneswar soliciting sanction with regard to arrear family pension for the period from 4.8.98 to 30.04.06 and revised pension from 1.1.96 to 3.8.98 amounting to Rs. 301474/- and Rs. 18720/- respectively in compliance to Rules 317 and 318 of O.T.C. Vol.-I vide this office letter No. 2588 dated 17.12.2007. Thereafter,

this Treasury released the family pension in favour of Smt. Premalata Sahu towards family pension with effect from 1.5.2006 and continued till date".

6. The Deputy Commissioner (Law) in the office of Commissioner, Central Excise, Customs & Service Tax, Bhubaneswar has also filed a reply to the rejoinder in which it has been stated that "as per declaration of Late P.Sahu, Superintendent (Retd.) vide his letter dated 01.06.87 and 14.07.98 the Head of Office i.e. Assistant Collector (Hdqrs.) now Additional Commissioner (P&V), sanctioned the revised pension w.e.f. 01.01.96 and accordingly revised pension was authorized to State Bank of India, Old Town Branch, Bhubaneswar to disburse the pension. The Authority was issued by Central Pension Accounting Office, New Delhi vide his letter No. 1677/Central 142/530/A-2 dated 05.11.98 to the SBI, Old town Branch, Bhubaneswar with an intimation to this office. When the pension was disbursed by SBI Old Town Branch as authorized by Central Pension Unit, it is not understood how and under what authority Treasury Officer, Spl. Treasury Office, No-1, Bhubaneswar calculated the revised pension payment from 01.01.96 to 03.08.98 and arrear family pension from 04.08.98 to 30.04.06 in favour of the applicant, P.P.O. No. 1677/Central A.G., Orissa, Bhubaneswar has no role to authorize the arrear pension to Late Sri P.Sahu, retired

Superintendent of Central Excise Department, when the revised pension has already been authorized by Central Pension Accounting Officer, New Delhi, the authorized officer for issuing pension payment order in respect of retired officers of Central Excise Department. However, the A.G.(Orissa) has already, properly, been replied vide this office letter of even No. 23636-39 dated 18.11.08, 4587A dated 28.05.09 and 9538A dated 23.3.10 (Annexure-R/1, R/2 and R/3) with an intimation to contact SBI, Old Town Branch, Bhubaneswar vide this office letter of even No. 23936-39 dated 18.11.08, 4587A dated 28.05.09 and 9538A dated 23.3.10 for payment of pension/Arrear pension. Without furnishing non drawal/non payment certificate regarding payment of pension/Arrear pension, according to authorization of revise pension from SBI, Old Town Branch, Bhubaneswar, no sanction can be accorded at this end. But neither non drawal/non payment certificate from AG nor from SBI, Old town Branch, Bhubaneswar is received in this office for taking further action at this end. Without documentary evidence regarding non payment/non drawal certificate sanction cannot be accorded on the basis of evidence as requested by the applicant".

7. Custom and Excise Department has taken the stand that SBI Old Town Branch should request payment of the pension and family pension remaining undrawn for more than one year with the

sanction of the Head of the Department by whom pension revision case was finalized and, according to the Custom Department, it is the responsibility of SBI Old Town Branch, Bhubaneswar to make payment of arrears of pension with the sanction of the Head of the Department of the office by whom the revised pension case was finalized.

8. Heard Ld. Counsel for the parties, who have reiterated their stand as taken in the pleadings and perused the records.

9. It reveals that there is no dispute regarding non-payment of certain amount, which was due to the husband of the applicant for the period 1.1.96 to 3.8.98 and also the arrear payments in favour of the applicant towards revised family pension for the period from 4.8.98 to 30.04.2006. The only dispute which has stood on the progress of the case for releasing the aforesaid payment is sanction from the appropriate authority. In the process of obtaining sanction so many authorities including SBI have been involved, one passing the buck to the other. The net result is that the legitimate payment of a widow who is about 67 years old is running from pillar to post to get her dues. It is the responsibility of the employer to ensure that the legitimate payments of its employees and the families of a deceased employee are disbursed without causing unreasonable delay and by avoiding bureaucratic redtapism. The technicalities have to be sorted

out by the Respondents and definitely not by the applicant. The case ought to have been dealt with a more humane approach and not dillydallying by raising issues on trivialities. The Department of Customs at Bhubaneswar cannot abdicate its responsibility by stating that records are not available and after departmentalization of Accounts they have nothing to do. It is the primary responsibility of the employer department to have facilitated obtaining sanction and releasing payment. It is well known that the departmentalization of Accounts was a step taken by the Government for administrative efficiency and not another wheel within a wheel causing delay.

10. In the light of above observations, I direct the Respondent No.1 to sort out the matter in consultation with Respondent Nos. 3, 6 and 7, if need be, and ensure the release of the payment as admissible to the applicant within a period of 3 months from the date of receipt of a copy of this order. The applicant shall be entitled to interest at the rate of 6% for any delay beyond the above period of 3 months.

11. With the above observation and direction, the O.A. stands allowed. No costs.


(C.R.MOHAPATRA)
MEMBER (ADMN.)