

CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH, JODHPUR

O.A. No. 97/2011

Jodhpur this the 17<sup>th</sup> January, 2014.

CORAM

**Hon'ble Mr.Justice Kailash Chandra Joshi, Judicial Member**

Mukand Lal Katyal s/o Shri Ram Das Katyal, aged about 72 years, B/c Arora, r/o Sector No.12, 3 KNJ, Hanumangarh Junction, District Hanumangarh, retired as Senior T.C.M.-I while working under the respondent no.3.

.. Applicant

By Advocate: Shri J.S.Bhaleria

Versus

1. The Union of India through the General Manager, North Western Railway, Head Quarter, Jaipur
2. The Divisional Personal Officer, Northern Western Railway, Bikaner.
3. The Sr. Divisional Finance Manager, Northern Western Railway, Bikaner.
4. State Bank of India, Hanumangarh through its Branch Manager Hanumangarh Junction, Hanumangarh.
5. The State Bank of Bikaner and Jaipur through its Branch Manager, Hanumangarh Junction, District-Hanumangarh-(dispense with).

.. Respondents

By Advocate: Mr. Salil Trivedi for resp. 1 to 3

ORDER (Oral)

The applicant has filed the present OA against non payment of commutation value mentioned in his PPO and also against the illegal deduction of commutation amount from 1.1.1996 and not from the date of making the actual payment of arrears. The applicant is also aggrieved against the non grant of the benefit of the order dated 11.3.2004 whereby

50% of DA/DR was ordered to be merged in the basic pay/pension w.e.f. 1.4.2004.

2. Short facts of the case are that the applicant retired from the post of Senior TCM-I after attaining the age of superannuation on 29.2.1996. At the time of retirement, the applicant commuted his pension as per the scheme of Railway Department. The railway authorities while commuting the pension of the applicant determined his pension as Rs. 884/- and commutation fraction of Rs. 181/- which was to be deducted from the pension of the applicant from 1.3.1996 to 28.2.2011 or the date of death, whichever is earlier. Pursuant to PPO Ann.A/2, the applicant submitted Account No.5104 of the SBBJ Bank to the railway authorities and thereafter pension of the applicant was started to be deposited in the aforesaid bank account. As per recommendations of the Fifth Pay Commission, the railway authorities revised the pension of the applicant vide order dated 1.9.1998 and accordingly the revised monthly pension was Rs. 2205/. The benefit of the 5<sup>th</sup> Pay Commission was given to the applicant w.e.f. 1.3.1996. The commutation pension amount was also revised and it was Rs. 882/-, which was to be deducted from the monthly pension of the applicant w.e.f. the date on which the actual payment was made i.e. September, 1998. The applicant has further stated that as per the PPO order, the difference of the commutation value amount was assessed as Rs. 75437/- which was to be paid to the applicant in the month of September, 1998. As per the revised pension order dated 1.9.1998, the difference of commuted amount of Rs. 75437/- was to be paid to the applicant and commuted portion of pension of Rs. 882/- was to be deducted from the monthly pension of the applicant, but the respondents bank only deposited Rs. 41483/- in the Bank Account No.5104 of the applicant and illegally deducted Rs. 33954/- without giving

any order in writing to the applicant and without informing him. It is further averred that on 1.10.2000, a third PPO was issued to the applicant whereby his pension was again revised and as per this PPO his revised sanctioned monthly pension was made Rs. 2573/- and a commutation portion of pension was also revised to Rs. 1024/-. The difference of commuted value amount was assessed to the tune of Rs. 18452/- which has been paid to the applicant. The revised commuted portion was to be deducted from the date when actual payment i.e. October, 2000, but the respondents without any basis has deducted this portion w.e.f. March, 1996, which is illegal.

The applicant has also filed a representation raising his grievance and also put his case to the Pension Adalat. The applicant was informed that there is no error on the part of the respondent while implementing the order Ann.A/6. Further, the applicant changed his Bank A/c from SBBJ to SBI. The respondent No.3 vide letter dated 3.11.2003 asked the Manager of SBI to recover the commuted part of pension. The applicant further averred that at the time of issuing order Ann.A/10, the basic pension of the applicant was Rs. 2573/- and if 50% of the DA is merged in the basic pension w.e.f. 1.4.2004, his pension becomes Rs. 3860/- and after implementation of recommendation of 6<sup>th</sup> Pay Commission, his basic pension would have been Rs. 8774/- corresponding to his earlier basic of Rs. 3860/-, but the respondent bank has paid the applicant pension as Rs. 2573/- upto 1.1.2006 and thereafter Rs. 5817/- and benefit of order Ann.A/10 has not been provided to the applicant. The applicant has stated that the respondents are having no authority to withheld the benefits, which has been extended by the Government of India or by the Railway Board and by not extending the benefit as per order Ann.A/10, the respondents are acting arbitrarily, which is not permissible in the eyes of law. Therefore, aggrieved by the action of

the respondents, the applicant has filed the OA praying for the following reliefs:-

- a. The respondents may kindly be directed to determine his pension by 2650 as 50% of the basic revised pay i.e. Rs. 5300/- as per PPO order dated 01.09.1998 and the respondents may further directed to pay the arrear to the applicant.
- b. That the respondents may kindly be directed to pay Rs. 33954/- which they have deducted from the revised commuted amount of Rs. 75437/- as per PPO dated: 01.09.1998 (Annex.A/3). The amount of Rs. 18452/- as mentioned in the PPO Annexure A/5 may also be directed to be paid to the applicant with interest.
- c. The respondents may kindly be directed to deduct the commutation portion of pension of Rs. 882/- from December, 1998 as per PPO dated 01.09.1998 and the excess amount may ordered to be refunded to the applicant with interest i.e. 12% per annum.
- d. That the respondents may kindly be directed to deduct the commutation portion of Rs. 1024/- from Oct 2000 as per PPO order dated: 01.10.2000 and the excess amount may order to be refunded to the applicant with interest i.e. 12% per annum.
- e. That the respondents may kindly be directed to provide the benefit by merging DA equal to 50% of the basic pay in the basic pay w.e.f. 01.04.2004 as per order Annexure A/10 and to make the consequential fixations and also may kindly be directed to make the payment of the arrears by implementing the order Annexure A/10 with interest @ 12% per annum.
- f. Any other direction/relief/order may be passed in favour of the applicant which may be deemed just and proper in the facts and circumstances of the case.
- g. That the cost of this application may be awarded with all consequential benefits.

3. By way of filing reply, the respondents have denied the claim of the applicant and submitted that as per the recommendation of the VI CPC, the revised PPO was issued and the pension of the applicant was fixed at Rs. 2205/- and an additional commuted portion of Rs. 601/- (Rs.882-281), therefore, the total commuted portion was Rs. 882/- and commuted value of Rs. 75437/- has been credited in SB account of the applicant. The competent authority has issued a letter clarifying the position to the

concerned bank under intimation to the applicant vide letter dated 7.7.2000. The respondents have further submitted that as per the revised PPO, commuted value of pension of Rs. 75437/- was to be paid to the applicant, but the bank actually paid Rs. 41483/- and recovered Rs. 33954. Thus, the amount comprises the element of commuted portion of Rs. 20434/- and already higher amount of pension has been paid to the applicant by the bank. The bank was paying Rs. 2316/- per month when the revised PPO was issued and the pension was fixed at Rs. 2205/- per month from 1.3.96 to 31.12.1998. This excess amount of Rs. 13520/- paid to the applicant was recovered by the bank and hence total amount of Rs. 33954/- was recovered. Further submitted that the pension of the applicant was further revised and fixed at Rs. 2573/- and an additional commuted portion of Rs. 147. The commuted value of which amounting to Rs. 18452/- was paid to the applicant on 28.11.2000. It is further submitted that an additional commuted portion of the pension was to be deducted from next date of which the value of commuted pension is credited in the account of the pension holder, but at the time of issuance of his revised PPO, the applicant was getting higher pension, then the sanctioned pension in the revised PPO and hence the bank deducted the recoverable amount and also recovered the commuted portion of Rs. 601/- from 1.3.1996 instead of the next date on which amount of commuted value of pension credited in his account. The respondents also submitted that there was no error in pension disbursement as per the record of the respondents and, therefore, the applicant was advised to approach the bank to ensure the correct value of the commuted pension in November 2001 itself. The revision of pension in VI CPC on the basis of basic pension Rs. 2573/- has accurately arrived at Rs. 5817/-, however, the claim of the applicant of the Dearness relief on basic pension and then fixing the pension at Rs. 8724/- is not covered under the rules.

Therefore, the respondents submitted that the applicant is not entitled to any relief as prayed for.

No reply has been filed by respondent No.4 despite giving opportunity to file reply.

4. Heard both the parties. Counsel for the applicant contended that though Railway department vide letter Annex. R/2 dated 07.07.2000 directed the respondent No. 4 to make payment as per Annex. R/2 but respondent No. 4 instead of making payment in compliance to order Annex. A/2 deducting the amount of commutation as per earlier method i.e. respondent No. 4 is recovering the amount from 1996 whereas they should have recovered the amount from the date of revision of the PPO i.e. from the year 2000.

5. Per contra counsel for the respondents No. 1 to 3 contended that the respondents No. 1 to 3 have already requested the respondent No. 4 i.e. Branch Manager, State Bank of India, Hanumangarh Junction, Hanumangarh as per Annex. R/2.

6. I have perused the record and considered the rival contentions of both the parties. From perusal of Annex. R/2, it is very clear that Railway department has already informed the respondent No. 4 to act as per their letter dated 07.07.2000 but the respondent No. 4 is not complying with the order and withheld certain amount by way of deducting excess amount of commutation.

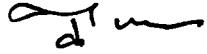
7. In view of the discussion hereinabove made, I allow the OA with following directions:

1. The applicant is directed to make a detailed representation to the respondent No. 4 informing each and every month-wise entry

regarding excess deduction and also enclose relevant PPOs and other material available, within 15 days from the date of receipt of this order so that payment can be made in time by respondent No. 4 in accordance with Annex. R/2.

2. The applicant is also directed to make effective representation to the concerned Railway authorities for revision of his pension, within 15 days from the date of receipt of this order.
3. Competent Railway Authority shall decide the representation of the applicant within 3 months from the receipt of the representation.
4. The respondent No. 4 is directed to act as per Annex. R/2, letter dated 07.07.2000 issued by Divisional Accounts Officer of the then Northern Railway now North Western Railway, Bikaner and make the payment of revised pension and excess deduction of commutation amount to the applicant within 4 months from the date of receipt of the order. If respondent No. 4 does not make payment within stipulated time, he shall be liable for payment with interest @ 12% p.a. to the applicant.

8. The OA is allowed in the above terms with no order as to costs.

  
(JUSTICE K.C. JOSHI)  
JUDICIAL MEMBER

R/ss