

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

**Original Application No. 290/00061/2014
Misc. Application No.290/00122/2014**

Jodhpur, this the 19th day of February, 2015

CORAM

Hon'ble Ms. Meenakshi Hooja, Administrative Member

M.L.Khatri s/o Shri Arjun Mal, aged 77 years, retired Assistant Engineer (B&R) in the office of Garrison Engineer, MES, Army (Central), Multan Lines, Jodhpur r/o 3 N 2 Kudi Bhagtasani Housing Board, Jodhpur

.....Applicant

By Advocate: Mr. Vijay Mehta

Versus

1. Union of India through the Secretary, Ministry of Defence, Raksha Bhawan, New Delhi.
2. Commander Works Engineer, MES, Army, Multan Lines, Jodhpur.
3. Garrison Engineer, MES, Army (Central) Multan Lines, Jodhpur
4. Commander Works Engineer, MES, Sri Ganganagar.
5. Garrison Engineer, MES, Lalgarh Jattan, District Sriganganagar.
6. Chief Controller of Defence Accounts (Pensions), Draupadi Ghat, Allahabad.

.....Respondents

By Advocate : Ms. K.Parveen.

ORDER (ORAL)

Considered the Misc. Application No.290/00122/2014 for condonation of delay in filing the present OA and in the interest of justice, the same is allowed.

2. By way of this OA the applicant claims regularization of suspension period, grant of increments and revision of pension and retiral benefits etc. and in the relief clause he has prayed for the following reliefs:-

“That from the facts and grounds mentioned herein above the applicant prays that the respondents may kindly be directed to regularize the suspension period and make payment of entire salary of this period after giving due increments from 1/2/1991, 1/2/1992 and 1/2/1993 and 1/2/1994. They and particularly respondent No.6 may further be directed to revise pension, gratuity and other retiral benefits after giving the above relief of regularization and payment of suspension period and after giving above said increment. The respondents may kindly be directed to make payment of earned leave of 37 days. It is also prayed that heavy costs may kindly be awarded to the applicant for this litigation since the respondents have failed to grant these relief despite lapse of 24 years and despite repeated representations and directions issued by the higher authorities of the respondents. Interest on due amount and till revision of pension at the rate of 12% may kindly be awarded to the applicant. Any other order giving relief may also be passed. Heavy costs may also be awarded to the applicants.”

3. Brief facts of the case, as averred by the applicant, are that while he was working on the post of Assistant Engineer (B&R) under respondent No.5 he was put under suspension vide order dated 11.2.1991 and disciplinary proceedings were initiated against him under Rule 14 of the CCS (CCA) Rules, 1965. While the applicant was under suspension he was transferred to Jodhpur under respondent No.2 and 3 where he joined on 6.1.1993. The applicant retired on 31.10.1994 but disciplinary proceedings were continued and a penalty of 50% cut in pension for a period of 5 years and 50% cut in DCRG was imposed upon the applicant vide order dated 22.2.1995. Thereafter the applicant submitted representation to regularize

his suspension period and to grant him increment due on 1.2.1991 and thereafter and payment of Earned Leave. The applicant has further stated that as per provisions of FR 53(1) and instructions issued thereunder the subsistence allowance is required to be increased suitably after a period of first three months and thereafter and DA is also required to be increased accordingly. It was also obligatory on their part to regularize the entire period of suspension after imposing the said penalty which does not amount to major penalty. The applicant filed a number of representations to the respondent authorities which are annexed at Ann.A/3 to A/21 and also annexed various communications of the respondent authorities in this regard at Ann.A/21 to A/28. The applicant has further stated that the Chief Engineer, Southern command vide letter dated 1.11.2013 (Ann.A/29) directed the Chief Engineer, Jodhpur Zone to take necessary action for settlement of outstanding dues. Further, the CRO vide telegram 20.3.1995 sent to respondent No.5 directed to issue PTO for revocation and regulation of suspension period of the applicant and also to issue PTO for grant of increments due on 1.2.1991 to Feb.1992 and also to issue PTO granting EL for 37 days from 20.5.1990 to 5.7.1990 which are held up due to non issue of PTO. But due payment has not been made to the applicant despite his repeated representations, direction issued by the higher authorities and despite repeated assurance of the respondents. Therefore, aggrieved of the action of the respondents, the applicant has filed this OA praying for reliefs as mentioned above.

4. In reply to the OA, the respondents have submitted that the officer was posted to GE (C) Jodhpur on permanent transfer on 23.12.1992 under suspension and suspension period not revoked till duly served, therefore, payment of 50% of salary w.e.f. 11.2.1991 to 30.9.1992 was made and thereafter payment of pay and allowances was paid @ 25% of the salary w.e.f. 1.10.1992 to 31.12.1992 as per direction of the Ministry of Defence letter dated 29.9.1992 (Ann.R/2). It has been further submitted that the increment was not granted due to the officer was on leave w.e.f. 21.1.1991 to 25.1.1991, 29.1.1991 to 31.1.1991 and 1.2.1991 to 10.2.1991. The payment of salary during the leave period was paid vide office Sy Pay Bill Voucher dated 28.6.1992 (Ann.R/3). The respondents have further submitted that representation dated 28.8.2013 and 9.9.2013 were received addressed to CRO (Officer) and copy to all concerned GE Lalgarh Jattan was asked to present position of the case from CRO (O) Delhi vide GE Lalgarh Jattan letter dated 29.10.2013 on the letters of GE(A) Central Jodhpur letter dated 25.10.2012 and certification as asked to the HQ CWE Sri Ganganagar vide letter dated 7.12.2013. Further submitted that the HQ CE (SC) Pune stated in his letter dated 31.5.1995 (Ann.R/5) that the officer has been awarded a major penalty i.e. 50% cut in pension payable to the applicant for a period of 5 years and 50% cut from DCRG admissible to him with immediate effect by the competent disciplinary authority vide Ministry of Defence order dated 11.2.1995. As such, question of regularization of suspension period does not arise and referred to Rule 23 of CCS (Pension) Rules, 1972 (Ann.R/6). According to the respondents the

PTO for grant of Earned Leave for 37 days (from 20.5.1990 to 5.7.199) was published in 1990 vide GE Lalgarh Jattan PTO dated 18.6.1992 and the same was addressed to CRO (O) Delhi Cantt. and a copy has been provided to the applicant while published and recently forwarded under GE Lalgarh Jattan letter dated 20.2.2014 (Ann.R/8). All the payments of suspense allowances, annual increments w.e.f. 1.2.1991 and 1.2.1992 required to be paid by GE (A) Central Jodhpur, which is last served unit of the officer. The drawn statement of salary period servant with GE Lalgarh Jattan from July 1989 to December 1992 has been forwarded to GE (A) Central, Jodhpur vide letter dated 20.2.2013. The case is under consideration and action shall be taken as per direction of the higher authorities. The pension may be revised by PCDA (P) Allahabad vide letter dated 11.4.2014 only after the regularization of the services and pay and allowances of the individual by the HOO and after receipt of the revised claim for revision of pensionary awarded from HOO (Ann.R/1). Therefore, the respondents pray for dismissal of the OA.

5. In rejoinder to the reply, the applicant has reiterated the averments made in the OA.

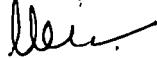
6. Heard both the parties. Counsel for the applicant contended that the applicant is a retired person of 77 years of age and the respondent department is not issuing any order regarding regularizing of suspension period and increments which were due during that period. It was contended that the applicant was suspended vide order Annexure-A/1 dated 11.02.1991 and retired on 31.10.1994 and further he has served number of

representations in this regard but the only response as brought out in the reply of the respondents is that the matter has been referred to the higher authorities.

7. Counsel for the respondents while referring to the points brought out in the reply submitted that the finalization of case of the applicant regarding regularization of suspended period is under consideration and action shall be taken as per direction of the higher authorities.

8. Considered the contentions of the parties and perused the record. In view of the submissions made by both the parties and the fact that the case of the applicant regarding regularization of suspension period is pending with the higher authorities of the respondent department, as is seen from the reply and the latest communications dated 11.4.2014 (Ann.R/1) and 6.8.2014 (Ann.R/7), it is proposed to dispose of this OA with certain directions. Accordingly, the respondents are directed to finalize the issues regarding regularization of suspension period of the applicant and the increments, if any, for that period, and any resultant due payments, within three months from the date of receipt of a copy of this order.

9. Accordingly, the OA is disposed of as above with no order as to costs.


[Meenakshi Hooja]
Administrative Member

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