

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

OA No.290/000207/2014

Jodhpur, this the 9th day of March, 2015

CORAM

Hon'ble Mr. Justice K.C. Joshi, Judicial Member

Mrs. Madhuri Shrivastava w/o Late Shri Gopal Krishna (Vice Chairman (Retd.), Central Administrative Tribunal) permanent resident of 67/4, Pratap Nagar, Sanganer, Jaipur-303906, presently residing at E-54, Ground Floor, Unitech Singleton Floors, Sohna Road, South City-II, Gurgaon.

.....Applicant

By Advocate: Mr. Dilip Sharma

Versus

1. Union of India through its Secretary, Ministry of Public Grievance & Pensions, Department of Personnel & Training, Government of India, North Block, New Delhi.
2. Central Administrative Tribunal through the Pay and Accounts Officer, Ministry of Public Grievance and Pensions, C-1, Hutmants, Dalhousie House, New Delhi.

.....Respondents

By Advocate : Ms. Kausar Parveen

ORDER (ORAL)

By filing this OA u/s 19 of the Administrative Tribunals Act, 1985, the applicant is assailing the inaction on the part of the respondents to revise the pension and other retiral benefits of the applicant after counting the service rendered by her husband and further seeks benefits of various provisions of law. The applicant is also aggrieved by non-consideration of her representation dated 27th August, 2013. Therefore, she has prayed for the following reliefs:-

- a. By an appropriate order or direction in nature thereof thereby direct the respondents to revise the pension of the applicant.
- b. By an appropriate order or direction in nature thereof thereby direct the respondents to release all arrears of the Retiral Dues, other Retiral benefits, Gratuity and all other consequential benefits with a interest rate of 12% per annum.
- c. Any other order, relief or direction, which this Hon'ble Tribunal deems fit and proper and just in the facts and circumstances in the case may also be passed.
- d. Cost of litigation may also be ordered to be awarded in favour of the applicant.

2. Short facts of the case are that husband of the applicant was initially appointed on 5.7.1965 in the Rajasthan Judicial Services (RJS) and had sought voluntary retirement from the Rajasthan Higher Judicial Service (RHJS) w.e.f. 31.1.1991 on selection as Judicial Member in Central Administrative Tribunal (CAT). The husband of the applicant was appointed in the CAT for a tenure of five years or 62 years of age, whichever is earlier and he joined CAT, Jaipur Bench on 6.2.1991. During that period husband of the applicant was governed by the Central Administrative Tribunal (Salaries and Allowances and Conditions of Service of Chairman, Vice Chairmen and Members) Rules, 1965 (sic 1985). The Government of Rajasthan sanctioned pension and family pension vide 102092 (R) and pension payable to husband of the applicant was enhanced to Rs. 7045 p.m. and gratuity was also released. The husband of the applicant relinquished charge of the post of Judicial Member on 16.5.1995 on his elevation as Vice Chairman of CAT-Jodhpur Bench, which he joined on 17.4.1995. The applicant has stated that her husband served as Judicial Member from 6.2.1991 to 16.4.1995 and as Chairman of the Tribunal from 17.4.1995 to 11.11.1999. Thereafter he

superannuated from the post of Vice Chairman on attaining the age of 65 years. Thus, he has rendered total qualifying service of 8 years, 9 months and 6 days as Judicial Member and Vice Chairman in the CAT for the purpose of additional pension. The appointment as Vice Chairman was in continuation of appointment as Member of the CAT and was to be treated as transfer on promotion. After attaining the age of superannuation, husband of the applicant gave a detailed representation for revision of his pensionary benefits and the Dy. Registrar (JA), CAT, Principal Bench gave directives to review leave encashment in view of the Rules applicable to the Part-III of the Judge of a High Court. The Department of Personnel and Training gave directives to the Registrar of the CAT, Principal Bench but the request of husband of the applicant could not be approved. After death of her husband, the applicant took up the matter and served a legal notice through her counsel. Thereafter the respondents sought Form-14 from the applicant, which was duly filled up and sent to the concerned authority vide letter dated 29.8.2013 (Ann.A/15). During the intervening period, the applicant also submitted representation along with all relevant judgments to the concerned authorities. Thereafter the Dy. Registrar (JA) on consideration of representation of the applicant clarified the position and directed that pension of her husband be revised w.e.f. 1.1.2006 in view of DOP&T notification dated 22.7.2009. The Dy. Registrar of Jodhpur Bench also sent calculation sheets to be examined by the FA&CAO and thereafter on the basis of representation, the respondents made departmental communication for clarification on the issue raised by the applicant. Thereafter the applicant submitted several representations to expedite the entire process, but the

applicant could not get relief, therefore, by way of this OA, she has prayed for the reliefs as extracted in para-1 above.

3. The respondents have filed preliminary objection regarding the jurisdiction of this Tribunal submitting that this Tribunal has no jurisdiction in respect of cases filed by its existing/retired Vice Chairmen/Members in view of the judgment of the Hon'ble Supreme Court in the case of L.Chandra Kumar vs. Union of India and others, [1997 (3) SCC 261] (Ann.R/1) wherein it was held that a Tribunal cannot adjudicate upon the virus of statute under which it has been created. The respondents have further referred the judgment of the Hon'ble Delhi High Court in Writ Petition (C) No. 4557 of 2007 – Union of India and another vs. Shanker Raju - wherein the Hon'ble Delhi High Court observed that CAT has no jurisdiction to entertain the cases of Hon'ble Members (Adm/Judl) in the Central Administrative Tribunal and on the basis of the aforesaid decision, the CAT-Calcutta Bench has dismissed OA No.1713 of 2010 filed by Dr. A.R.Basu, Ex-Member (Admn.).

4. After filing of preliminary objections, the applicant was given opportunity to file rejoinder, if desires, but no rejoinder has been filed, therefore, the matter was finally heard at this stage.

5. Heard both the parties. Counsel for applicant contended that virus has not been challenged in this OA but it is simply prayed to direct the respondents to revise the pension of the applicant with further direction to release all arrears of retiral dues, other retiral benefits, gratuity and all other

further contended that since the virus has not been challenged, therefore, this Tribunal has got jurisdiction to adjudicate such matters.

6. Per contra, counsel for respondents contended that the Hon'ble Members and Hon'ble Chairman of the CAT are not civil servants. He further contended that in a similar matter before the Delhi High Court in Writ Petition No. 4557/2007, Union of India and Anr. vs Shankar Raju, decided on 13th December, 2007, the Court observed that Central Administrative Tribunal has got no jurisdiction to entertain such cases of Hon'ble Administrative or Judicial Members. Counsel for respondents further supported his arguments by way of another judgment passed by the Calcutta Bench of the CAT in OA No. 1713/2010 filed by Dr A.R. Basu, Ex-Administrative Member and contended that in both these cases it has been held that the Tribunal has got no jurisdiction to entertain such applications.

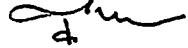
7. I have considered the rival contentions of both the parties and also perused the record. Counsel for applicant in support of his argument relied upon following judgments :-

- (i) Devendra Kumar Agarwal v. Union of India reported in 102(2003) Delhi Law Times 461 (Delhi High Court)
- (ii) Dinesh Chandra Verma vs. Union of India and others decided by the CAT-Lucknow Bench vide order dated 1.6.2007

8. I have perused the judgments cited by counsel for applicant and these judgments have no bearing on the present case because it is settled principle of law that the Members of the Tribunal whether Judicial or Administrative are not civil servants of the Government, therefore, service matters relating

judgments cited by counsel for respondents, it is well established that this Tribunal has no jurisdiction to entertain such OAs, therefore, the OA filed by the applicant is returned back to the counsel for applicant alongwith its enclosures to file it before proper forum and office is directed to make detailed note regarding returning of the OA while mentioning all the relevant dates.

9. In the result, the OA is dismissed as not maintainable for want of jurisdiction.



(JUSTICE K.C.JOSHI)
Judicial Member

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