

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 468 OF 2009

Thursday, this the 25th day of March, 2010

CORAM:

**HON'BLE Mr.JUSTICE K.THANKAPPAN, JUDICIAL MEMBER
HON'BLE Mr. K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

E.Vijayaraghavan

Retired Superintendent of Central Excise
Central Excise Commissionerate, Calicut
Residing at Etankulil, Maniyur P.O.
Payyoli Bazar, Calicut – 673 523

... Applicant

(By Advocate Mr. TCG Swamy)

versus

1. Union of India represented by the Secretary
to the Government of India
Ministry of Finance
Department of Revenue
New Delhi
 2. The Secretary to the Government of India
Ministry of Personnel, Public Grievances & Pensions,
Department of Pension & Pensioner's Welfare
Lok Nayak Bhawan
New Delhi – 110 003
 3. The Pay & Accounts Officer
Central Excise & Customs
Commissionerate of Central Excise
CR Building, Calicut – 673 001
 4. The Commissioner of Central Excise
CR Building, Calicut – 673 001
- ... Respondents

(By Advocate Mr.Sunil Jacob Jose, SCGSC)

The application having been heard on 25.03.2010, the Tribunal on the same day delivered the following:

ORDER

HON'BLE Mr.JUSTICE K.THANKAPPAN, JUDICIAL MEMBER

This OA has been filed by the applicant praying for the following reliefs:-



- i, *call for the records leading to the issue of A-3 and quash paragraph 5.4 of the same to the extent it reads " The revised provisions for calculation of pension in para 5.2 and para 5.3 above shall come into force with effect from the date of issue of this O.M and shall be applicable to Government Servants retiring on or after 1.1.2006 but before the date of issue of this O.M will continue to be governed by the Rules/orders which were in force immediately before coming into effect of these orders."*
- ii. *Call for the records leading to the issue of A-4 and A-5 and quash the same to the extent it clarifies that the benefit of full pension to those who had completed 20 years of qualifying service would be applicable to only to those who retired on or after 02.09.2008;*
- iii, *Call for the records leading to the issue of A-6 and quash the same to the extent it denies the applicant the benefit of 50% of the emoluments / average emoluments (whichever is higher) as on the date of superannuation as his monthly pension;*
- iv, *Direct the respondents to re-calculate the applicant's monthly pension on the basis of paragraphs 5.2 and 5.3 of A-3 and direct further to grant all consequential arrears of pension, relief and other terminal benefits arising there from.*

2. On receipt of notice from this Tribunal and as per directions issued by this Tribunal, the counsel appearing for the Respondents had submitted that the matter has been taken up by the higher ups and as per the different orders passed by the Governments of India, the claim of the applicant which were prayed as (i) to (iii) have already been considered. If so, the remaining portion of the reliefs claimed by the applicant is only to get the benefits accrued on the basis of the orders passed by the Government of India.

3. We have heard Mr.TCG Swamy, learned counsel for applicant and Mr.Sunil Jacob Jose, learned counsel for respondents. We have considered the entire claims of the applicant and the consideration taken by

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the Department, the respondents. We have also perused the orders relied on by the respondents. As per the latest order passed by the Government of India, Ministry of Personnel, Public Grievances & Pensions, Department of Pension & Pensioner's Welfare, Lok Nayak Bhawan, New Delhi dated 10.12.2009, it is ordered as follows:-

" This matter has been reconsidered by the Government. In partial modification of the instructions/order issued in this respect, it has now been decided that linkage of full pension with 33 years of qualifying service shall be dispensed with, with effect from 1.1.2006 instead of 2.9.2008. The revised provisions for calculation of pension in para 5.2 and 5.3 of the O.M.No.38/37/08-P&PW(A) dated 02.09.2008 shall come into force with effect from 1.1.2006 and shall be applicable to the Government servants retired / retiring after that date. Para 5.4 will further stand modified to that extent.

Consequent upon the above revised provisions, in partial modification of para 7.1 of the O.M 38/37/01-P&PW(A)-P&PWA() dated 2.9.08, the extant benefit of adding years of qualifying service for the purpose of computation of pension and gratuity shall stand withdrawn with effect from 1.1.2006.

The overall calculation may take into account revised gratuity and revised pension including arrears up to date of revision based on these instructions. However, no recoveries would be made in the cases already settled.

It is impressed upon all the Ministries/Departments of the Government of India to keep in view the above modifications/clarifications while disposing of the cases of revision of pension. They are also advised to dispose of the representations received by them from pensioners on the above issues without referring the same to this Department.

This issues with the concurrence of Ministry of Finance (Department of Expenditure) vide their U.O.No.375/EV/2009 dated 19.11.2009.

In their application to the employees of the Indian Audit and Accounts Departments, these orders issue in consultation with the Comptroller & Auditor General of India."

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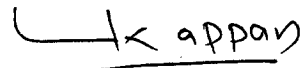
Reading of the above order would show that the reliefs sought for by the applicant has already been accepted by the respondents and the remaining portion of the relief is only to get the benefit from the order passed by the Government of India. Hence, we are disposing of this OA directing the respondents to pass appropriate orders with regard to the implementation of the order dated 10.12.2009 on allowing the benefits accrued to the applicant as per the order dated 10.12.2009 within a reasonable time, at any rate within three months from the date of receipt of a copy of this order.

4. With the above direction, this OA is disposed of. No order as to costs.

Dated, the 25th March, 2010.



K GEORGE JOSEPH
ADMINISTRATIVE MEMBER



JUSTICE K.THANKAPPAN
JUDICIAL MEMBER

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