

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. No.480 OF 2006

Tuesday, this the 5th day of June, 2007

CORAM :

HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER

Asari.T.V

Retired Deputy Director(Finance),
ICAR,Krishi Bhavan,New Delhi.

Residing at : Anil Nivas, XXX/1836,
Rice Research Road, Vytila PO
Kochi - 682 019

Applicant

(By Advocate Mr. Shafik M.A.)

Versus

1. Union of India represented by Director General,
Indian Council of Agriculture Research
Krishi Bhawan, New Delhi.

2. The Director(Finance)
Indian Council of Agriculture Research
Krishi Bhawan, New Delhi

3. The Secretary
Indian Council of Agriculture Research
Krishi Bhawan, New Delhi - 1 : Respondents

(By Advocate Mr. T.P.Sajan)

The application having been heard on 05.06.2007, the
Tribunal on the same day delivered the following :

ORDER

HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER

The short question involved in this case is as to
whether the applicant who retired from government service on
31.03.2004 (became a pensioner with effect from 01.04.2004) is
entitled to the benefit of order dated 01.03.2004 (Annexure A-1)
to the extent of merger of 50% of Dearness Allowance with basic
pay. For the purpose of proper understanding the said order is
extracted below:-

" Subject :- Merger of 50% of Dearness
Allowance/Deamess Relief with basic pay/

pension to Central Government employees/pensioners with effect from 01.04.2004.

The fifth CPC in para 105.11 of their Report had recommended that DA should be converted into Dearness Pay each time the CPI increases by 50% over the base index used by the last Pay Commission.

2. The recommendation of Fifth CPC has been considered and the President is pleased to decide that, with effect from 1.04.2004, DA equal to 50% of the existing basic pay shall be merged with the basic pay and shown distinctly as Dearness Pay (DP) which would be counted for purposes like payment of allowances, transfer grant, retirement benefits, contribution to GPF, Licence Fee, monthly contribution for CGHS, various advances etc. The entitlements for LTC, TA/DA while on tour and transfer and government accommodation shall, however, continue to be governed on the basis of the basic pay alone without taking into account Dearness Pay. In case of existing pensioners, Dearness Relief equal to 50% of the present pension will with effect from 1.04.2004, be merged with pension and shown distinctly as Dearness Pension. Dearness Allowance/Dearness Relief converted into Dearness Pay/Dearness Pension respectively would be deducted from the existing rate of Dearness Allowance/Dearness Relief.

3. To ensure that pensioners retiring between 1.4.2004 to 31.1.2005 do not face any loss in fixation of pension, as a special dispensation in their case. DA equal to 50% of the basic pay would be treated as basic pay for purpose of computation of pension in respect of basic pay received by them prior to 1.4.2004. Consequently, element of dearness pension will exist only to pensioners retired/retiring from Government of India upto 31.03.2004.

4. In so far as the persons serving in the Indian Audit & Accounts Department are concerned, these orders issue after consultation with the Comptroller & Auditor General of India."

2.

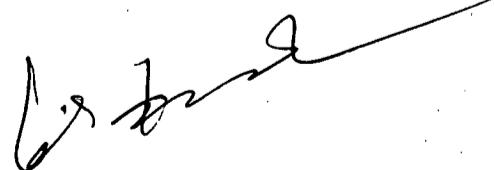
The counsel for applicant referred a decision of the Hon'ble High Court in the case of Union of India Vs. George 2003 Vol.II KLT 387 wherein the question was as to when does

a person retiring on 31.12.1995 become a pensioner. The decision was that a person retiring on 31.12.1995 became the pensioner from 01.01.1996. On the same analogy counsel for applicant submitted that in this case the applicant became a pensioner with effect from 01.04.2004 consequently the first sentence of Para 3 above would apply to him.

3. The order dated 01.03.2004 is unambiguous and the facility of merger of 50% of Dearness Allowance is applicable to pensioners retiring between 01.04.2004 to 31.01.2005 vide para 3 thereof. As such, the applicant is entitled to the benefit of order dated 01.03.2004.

4. In view of the above, the OA is allowed. It is declared that the applicant is entitled to the aforesaid benefit of 50% of merger of D.A as he was drawing as on 31.03.2004 and consequently the benefit thereof in working out the pension shall be available to him. Respondents are directed to work out the extent of difference in pension and pay the same to the applicant within a period of two months from the date of communication of this order. No costs.

Dated, the 5th June, 2007.



K.B.S.RAJAN
JUDICIAL MEMBER

vs