

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No. 585 / 2005

Wednesday this the 21st day of June, 2006

CORAM :

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

C.T.Sivaraman Nair
Supervisor B/S Grade I (Retd)
Office of the Chief Engineer, Jaipur Zone
Jaipur
Snehabi Nilayam
Anchampeedika PO
Kannur

Applicant

(By Advocate M/s. M.Sasidran & M.B.Prajith)

Versus

1. Union of India represented by
Additional Secretary (Pension)
Department of Pension & Pensioner's Welfare
Ministry of Personnel, Public Grievances and Pensions
Lok Nayak Bhawan, Khan Market, New Delhi
2. The Principal CDA (Pensions)
Draupaid Ghat, Allahabad - 14
3. The Chief CDA (Pensions)
Allahabad - 211014
4. The Chief Engineer
Southern Command Head Quarters
Pune - 411 001
5. The Manager, State Bank of India
Taliparamba Branch, Kannur

Respondents

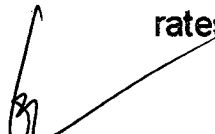
(By Advocate Mr.S.Abhilash, R(1-4))

The application having been heard on 21.06.2006, the Tribunal on the same day delivered the following :

ORDER

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

The applicant superannuated on 30.09.1990 from the post of Supervisor B/S Grade I in the then existing pay scale 1400-2600. On his superannuation he was accorded necessary pension at the rates applicable at that time.




2. In the wake of acceptance of Vth Pay Commission recommendations and framing of revised pay rules, 1997 the replacement scale corresponding to rs. 1400-2600 was Rs.5500-9000 vide Sl.No. 106 of the revised pay rules (Annexure A-1). A reference is also made to Para 63.195 of the Vth Pay Commission recommendations vide order dated 17.12.1998, the pension of pre 01.01.1996 retirees was also scheduled on the basis of 50% of the minimum in the revised scale of pay introduced with effect from 01.01.1996 of the post last held by the pensioner. According to this, the minimum pension available to the applicant is Rs.2,750/-, 50% of the minimum of the pay in the scale of Rs.5500-9000. This was in fact the accepted position as could be seen from order dated 26.04.2000 issued by 4th respondent. As a matter of fact, the C.D.A (Pensions) Allahabad vide their communication dated 19.06.2000 reflected the above pension at the rate of Rs.2750/- with effect from 01.01.1996 to the applicant vide Annexure A-5. However, strange enough, the C.D.A (Pensions) Allahabad without giving any specific reasons, rescheduled the pension with effect from 01.01.1996 at the rate of Rs.2594/- and the applicant has challenged the same through this Original Application. By virtue of this impugned order even recovery was directed to be effected at the rate of Rs. 500/- per month in respect of the alleged excess payment made.

3. Respondents have resisted the Original Application and two contradictory contentions as hereunder have been taken by them. (a) In order dated 01.03.2005 it is stated that the pay scale corresponding to 1400-2600 was Rs.5000-8000 and hence the applicant was not entitled to minimum pension of Rs.2750/-. (b) In the reply statement it has been contended that the upgraded scale is

applicable only in those cases where the Supervisor B/S Grade 1 held the post as on 01.01.1996 and as the applicant retired much earlier he is not entitled to the revised pension at the rate of 50% of the minimum of the pay scale attached to the post of Supervisor B/S Grade I.

4. Arguments were heard and documents perused. The learned counsel for applicant invited the attention to this Tribunal to Annexure R-1 O.M. Dated 11.05.2001 and stated that it does not stipulate that the revised pension shall be applicable only in respect of post 01.01.1996 retirees and thus contention (b) above is without basis. As a matter of fact, such contention by the respondents is totally untenable in view of the fact that for post 01.01.1996 retirees the pension will be based on average last ten months pay drawn and the same has nothing to do with the revised minimum pay scale. As such, the learned counsel for applicant is right with the contention that the very O.M dated 11.05.2001 is applicable for pre 01.01.1996 retirees. Contention at Para 3 (b) above too is to be rejected as the replacement pay for Rs.1400-2600 is Rs.5500-9000 and not 5000-8000.


5. In view of the above, I am of the considered opinion that respondents have committed a patent error in not fixing the pension of the applicant at the rate of Rs. 2750/- with effect from 01.01.1996. The impugned order viz., order dated 10.08.2004 passed by the PAO, CDA (Pensions) Allahabad and order dated 01.03.2005 (Annexure A-11) are hereby quashed and set aside. It is declared that the applicant is entitled to the pension at the rate of Rs.2750/- with effect from 01.01.1996 consequent to which there is no question of recovery of any alleged excess payment, If in the event of the



respondent having already recovered any such payment, needless to mention the same shall be paid to the applicant and it is ordered that the recovered amount shall be refunded with simple interest at the rate of 9% per annum. Further it is directed that the respondents shall continue to pay the applicant the pension at the rate of Rs. 2750/-

6. Under the above circumstances, the OA is disposed of. No order as to costs.

Dated, the 21st June, 2006.



K.B.S. RAJAN
JUDICIAL MEMBER

VS