

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.590/2000

Wednesday this the 17th day of October, 2001

CORAM

HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

V.Ramaswamy,
Programme Executive,
All India Raio (Retd)
Sree, 20/1206, Pulikal Paramb,
Behind Panniankara Police Station,
Kozhikode.3.Applicant

(By Advocate Mr. V.Krishna Menon)

v.

1. Union of India, represented by Secretary,
Ministry of Information and Broadcasting,
New Delhi.1.
2. Prasar Bharati, Broadcasting Corporation
of India, Directorate Genral All India Radio,
New Delhi.1. represented by its Director General.
3. The Pay & Accounts Officer,
IRIA, Ministry of I&B
AGCR Building,
Indraprastha Estate,
New Delhi.110 002.
4. The Station Director,
All India Radio,
Kozhikode.Respondents

(By Advocate Mr. C.Rajendran, SCGSC (rep. By Sh. Sreekumar)

The application having been heard on 17.10.2001, the
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

The applicant retired on superannuation from All
India Radio, Calicut as Programme Executive on 30.4.98. He
was not given his dues under various heads on his
superannuation in their entirety by the respondents.

2

Accordingly he made several non-productive representations to the respondents and eventually filed an application OA 956/99 before this Tribunal. That OA was disposed of by this Tribunal by order dated 7.9.99 (A4) directing the respondents to consider and pass appropriate orders on the applicant's representation (A3 therein) within a period of three months from the date of receipt of a copy of that order. Thereupon, the applicant was served with Annexure. A5 letter dated 15.12.99 whereby the applicant was informed that all the dues except HRA had already been paid to him with the salary of April, 1998. The details of the payments already made were also furnished itemwise in the impugned order Annexure.A5. The applicant who found that all the dues were not correctly disbursed to him and that still certain amounts were outstanding in his favour, filed Annexure.A6 and A7 representations on 4.1.2000 and 2.5.2000 respectively. Since there has been no response to the said representations, the applicant has filed the present Original Application seeking the following reliefs:

- (1) to declare that the applicant is entitled to the remaining pensionary benefits due to him by setting aside that portion of Annexure.A5 letter dated 15.12.99 issued by the third respondent which states that all dues except HRA had already been paid to the applicant, and that the said amounts should be paid to him along with interest at 18% p.a. from 1.5.1998 onwards along with costs of this proceedings.
- (2) To issue such other order or direction this Hon'ble Tribunal may deem fit and proper under the circumstances; and

2.

(3) Declare that the applicant is entitled to have his pension refixed in terms of office memorandum No.45.10.1998-P&W(A) dated 17.12.1998, issued by the Department of Pension and Pensioners Welfare and he is entitled to have his pension fixed at 50% of the last pay drawn, and that the arrears of pension on refixation should be paid to him along with interest at the rate of 18% per annum.

2. In their reply statements, the respondents have tenaciously resisted the application by stating that the entire dues have been paid. The applicant contradicts this stand by pointing out that several amounts like HRA pertaining to the period from 1.1.96 to 31.7.97 at 15% as against 5% granted, CCA at the rate of Rs.180/- per month from August, 1997 to February, 1998 as against Rs.735/- in total paid at the rate of Rs.105/- per month and TA for the period from August 1997 to October 1997 at the rate of 200/- per month are still to be paid. According to the applicant, another amount of Rs.4165/- under General Provident Fund Account balance also remains unpaid. Besides these the applicant feels seriously aggrieved because of the denial of his claim for pension at 50% admissible as per OM dated 17.12.98 which the respondents have wrongly questioned on the basis of a Government order dated 25.2.99 under which the applicant has already got the benefit. In other words, the respondents' stand is that the benefit of 50 percent as granted under the OM dated 17.12.98 is not admissible in the case of the applicant.

3. Shri Krishna Menon, counsel of the applicant has pointed out that the grounds advanced by the respondents by way of resisting the application are untenable inasmuch as

Q

several items of claim are still outstanding and to that extent the submissions made by the respondents are false. He would also highlight the fact that ^{as} some of the outstanding dues having been paid after inordinate lapse of time, the applicant was entitled to get necessary compensation by way of interest at 18% per annum. With regard to the claim of minimum pension of 50 %, the learned counsel who invited my attention to the OM No.45/10/98/P&W(A) dated 17.12.98 would state that the Government instructions are very clear on the matter and the respondents should not have suffered from any doubt with regard to that.

4. Shri Sreekumar representing Shri C.Rajendran, learned Senior Standing Counsel has pointed out that if at all any small claims are outstanding it is only on account of calculation discrepancies and accounting adjustments and that the respondents would be diligent to sort out the matter and settle the outstanding dues without any further loss of time. As regards the claim of minimum pension of 50% learned counsel has stated that the applicant was not entitled to upgraded pensionary benefits in accordance with I&B order dated 25.2.99 as he retired on 30.4.1998.

5. I have perused the case records and considered the arguments put forward by the counsel on either side. The reply statements filed by the respondents contain serious irregularities verging on inexactitude with reference to the outstanding dues yet to be paid to the applicant on account

2.

of his retirement. When there is no dispute with regard to the admissibility of the applicant's claims , the only variation that is possible is with reference to the quantum. I notice that there is unjustifiably inordinate delay in granting the applicant his legitimate dues which ought to have been paid within a reasonable time of his retirement on superannuation. Instead, a retired person has been driven to avoidable litigation on account of either lethargy or cussedness of the concerned person or persons dealing with these matters. It is therefore, considered necessary to put on record this Tribunal's strong depreciation of the indifference with which the whole matter has been dealt with in spite of clear directions issued and sufficient time granted in this regard.

6. The applicant's outstanding dues in respect of HRA, CCA, TA, Provident Fund Account balance etc. and other retiral benefits should be settled expeditiously with necessary compensation by way of interest, for all the delayed payments disbursed to him after the lapse of the time permitted by this Tribunal in its orders in Annexure A4 by way of interest.

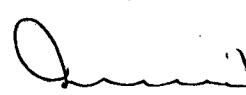
7. With regard to the applicant's claim of minimum pension there appears to be no cogent reason why his pension ought not to have been fixed with reference to the OM No. 45/10/98/P&WA dated 17.12.98. The instructions are clear.

Q Apparently the respondents have been under some confusion on

account of the later departmental instructions contained in the letter dated 25.2.99. That circular/letter according to me should not in any manner stand in the way of fixing the applicant's pension as on 1.1.96 in accordance with OM No.45/10/98/P&WA dated 17.12.98.

8. On the facts and in the circumstances of the case explained above, I hold that Annexure.A5 order to the extent to which it prejudiciously affects the applicant in so far as the outstanding dues are not disbursed to him is liable to be set aside. Accordingly, I do so. The applicant is entitled to get his pension fixed as per OM dated 17.12.98. The respondents are further directed to compensate the applicant by way of interest on delayed payment at the rate of 10 % (Ten percent) per annum on all the amounts paid from the due date namely the date of expiry of the time permitted by this Tribunal as per Annexure.A4 order till the actual disbursement. The above directions shall be carried out within a period of two months from the date of receipt of copy of this order. No order as to costs.

Dated this the 17th day of October, 2001


T.N.T. NAYAR
ADMINISTRATIVE MEMBER

(S)

A P P E N D I X

Applicant's Annexures:

1. Annexure A1 : True copy of the letter of the 2nd respondent dated 15/18-2-1999.
2. Annexure A2 : True copy of the representation dated 3.3.1999 of the applicant to the 3rd respondent.
3. Annexure A3 : True copy of the representation dated 3.5.1999 of the applicant to the 3rd respondent.
4. Annexure A4 : True copy of the order of the Hon'ble Tribunal in O.A.956/99 dated 7.9.1999.
5. Annexure A5 : True copy of the letter dated 15.12.1999 issued by the 3rd respondent.
6. Annexure A6 : True copy of the representation dated 4.1.2000 of the applicant to the 3rd respondent.
7. Annexure A7 : True copy of the representation of the applicant dated 2.5.2000 to the 3rd respondent.

Respondents' Annexures - Nil

.....