

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.14/03

Wednesday this the 22nd day of December 2004

C O R A M :

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN

K.K.Krishnan,
S/o.K.Perachan,
Residing at Little Kurumbetty,
Vengalam, P.O. Elathur, Kozhikode 673 303
Block Development Officer (Rtd.),
Union Territory of Lakshadweep. Applicant

(By Advocate Mr.P.V.Mohanan)

Versus

1. Union of India represented by
the Secretary, Ministry of Finance,
New Delhi.
2. Pay & Accounts Officer,
Central Pension Accounting Office,
Ministry of Finance, Govt. of India,
Trikoort - II Complex,
(Behing Hotel Hyatt Regency),
Bhikaji Cama Palace, New Delhi - 110 066.
3. The Manager,
State Bank of India,
Elathur Branch, Kozhikode - 673 303.
4. Accounts Officer,
Principal Pay & Accounts Office,
Union Territory of Lakshadweep,
Kavaratti. Respondents

(By Advocate Mr.P.J.Philip,ACGSC [R1-2]
& Mr.P.R.Ramachandra Menon [R4])

This application having been heard on 22nd December 2004
the Tribunal on the same day delivered the following :


O R D E R

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN

Having retired on superannuation from the service of the
Lakshadweep Administration on 31.12.1996 the monthly pension of
the applicant with effect from 1.1.1997 was fixed at Rs.1,280/-.
Rs.426/- was commuted and the residuary pension was Rs.854/-.
The applicant was paid a sum of Rs.53,472/- as commuted value of
pension and Rs.83,210/- as DCRG. Owing to the addition of DA and


relief the applicant was getting a total pension including DA of Rs.5433/- from the month of April 2002 onwards. His grievance is that without any notice to him and for no justifiable reason the 4th respondent issued Annexure A-3 order fixing the applicant's pension at Rs.3,450 which provided for adjustment of dearness allowance drawn by the applicant from 1.1.1997 onwards. Apprehending that the above adjustment if made would result in reduction of the applicant's pension to Rs.3760 resulting a reduction of Rs.1673 per month the applicant has filed this application seeking to set aside Annexure A-3 and for a direction to the respondents not to reduce the pension drawn by the applicant pursuant to Annexure A-1 and Annexure A-2 proceedings. It is alleged in the application that the pension and DA received by the applicant from 1.1.1997 onwards is not required to adjusted or recovered.

2. The 2nd respondent has filed a reply statement on the basis of the proposal contained in Annexure R-1 letter of the 4th respondent and there is no illegality calling for judicial intervention. The 4th respondent has filed a reply statement. It is contended that the revision of the applicant's pension became necessary on account of his request made on 31st May 2002 (Annexure R-4[f]) to have his pay revised in terms of the Revised Pay Rules, 1997 and as he opted to the revised pay scale and that accordingly his terminal benefits were revised he was given the enhanced DCRG, commuted value etc. They contend that they seek to justify the adjustment on the basis of the Ministry of Finance O.M.No.45/86/97 dated 27.10.1997 and O.M. dated 17.12.1998 (Annexure R-4[b] & [c]). It is also stated in the reply that it appears that the Bank had revised the pension of the applicant



suo moto on the basis of O.M. dated 27.10.1997 for which it did not have authority as also the said O.M. did not apply to post 1.1.1996 pensioners. The respondents contend that the applicant has no legitimate grievance.

3. I have heard the learned counsel on either side and have gone through the material available on record. It is evident from Annexure R-4(f) that the applicant had opted to have his pay revised in terms of the Revised Pay Rules, 1997 and it is also seen from the table given in page 4 of the reply statement of the 4th respondent that the pension and other terminal benefits of the applicant have considerably increased and the applicant given the benefits. The only grievance of the applicant is that the Bank, Pension Disbursing Authority as also the 4th respondent are confused regarding the applicability of O.M. dated 27.10.1997 in the case of the applicant which had resulted in Bank refusing to credit the DA on the enhanced pension. A perusal of Annexure A-3 would show that the applicant would be entitled to the enhanced pension of Rs.3,450/- as also the dearness relief to be allowed as admissible from time to time and apparently the applicant has no cause for grievance if the revised residuary pension at the rate of Rs.2,070, and the DA as admissible from time to time is given to him. From the reply statement of the 4th respondent it is evident that the 4th respondent is not clear in its mind as to whether the O.M. dated 27.10.1997 Annexure R-4(b) would apply or would not apply. In paragraph 5 of the reply it is stated that Annexure R-2 has been issued on the basis of the Government of India, Department of Pension and Pensioners Welfare O.M.F.No.45/86/97-P&PW(A) - Part.II dated 27.10.1997 and O.M. dated 17.12.1998. However in paragraph 6 of the reply statement

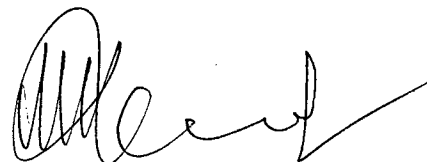


the 4th respondent has stated that the O.M. dated 27.10.1997 applies only for revision of pension of pre 1996 pensioners. In view of the contention it appears that a view was taken by the 4th respondent as also the Bank, Pension Disbursing Authority that the applicant would not be entitled to the reliefs on the revised pension which is not the case because the O.M. dated 27.10.1997 does not apply at all to post 1996 pensioners.

4. Learned counsel of the applicant states that although on account of the interim order issued in this case the respondents the Pension Disbursing Authority has not made any recovery the relief on the pension has not been paid to the applicant. If that is so the applicant has been put to undeserving hardship which has got to be removed.

5. In the result, in the light of what is stated above I dispose of this application directing the respondents to pay to the applicant the revised reduced pension of Rs.2,070 with full DA as admissible as per rules from time to time since the O.M. dated 27.10.1997 is inapplicable in the case of the applicant. I also direct that if on the basis of an erroneous presumption the relief on the applicant's pension had not been disbursed to him the arrears thereof shall be paid to him within a period of one month from the date of receipt of a copy of this order. There is no order as to costs.

(Dated the 22nd day of December 2004)



A.V.HARIDASAN
VICE CHAIRMAN