

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 189 of 2010

Monday, this the 21st day of February, 2011.

CORAM:

HON'BLE Mr. JUSTICE P.R. RAMAN, JUDICIAL MEMBER

HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER

C.T. Sivaraman Nair,
Supervisor B/S Grade I (Retd.),
Office of the Chief Engineer,
Jaipur Zone, Jaipur,
Permanent Address : Snehabi Nilayam,
Anchampeedika, P.O. Kannur. Applicant.

(By Advocate Mr. P. Sunil Nair)

v e r s u s

1. Union of India represented by
The Additional Secretary (Pension),
Department of Pension & Pensioners 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 – 211 014
4. The Chief Engineer,
Southern Command Headquarters,
Pune : 411 001
5. The Manager,
State Bank of India,
Thaliparamba Branch, Kannur. Respondents.

(By Advocate Mr. S. Jamal, ACGSC)

The Original Application having been heard on 21.02.2011, the
Tribunal on the same day delivered the following:



ORDER

HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER

This O.A has been filed by the applicant for a direction to the 2nd respondent to refix the pay scale of the applicant at Rs. 2000-2600 on par with the other employees on the same cadre during the same tenure and for a further direction to make payment of arrears to him.

2. The applicant had earlier filed O.A. No. 85/2005, which was allowed on 21.06.2006 as under :

"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 RS. 9% per annum. Further it is directed that the respondents shall continue to pay the applicant the pension at the rate of RS. 2750/-."

3. Though his basic pension was fixed at Rs. 2750/-, the applicant is aggrieved that he has to face the question of error in pay fixation again.

4. The applicant contended that clarification of equally positioned employees based on performance and making two scales of payment was unreasonable and unjust. Those who occupy equal seat must be treated



equally. The applicant has been declared entitled to pension at Rs. 2750/- Despite this declaration, the 2nd respondent is raising unnecessary objection based on the contention that his pay scale was 1400-2600 and that as per the 5th pay revision, he is entitled to the pay scale of Rs. 5000-8000 and for a pension of Rs. 2595/-only.

5. The respondents contested the O.A. It was submitted on their behalf that there was no violation of any law involved in this case as the respondents had already implemented the order of this Tribunal dated 26.06.2006. The pension of the applicant has been further revised by them as per the ruling of the Hon'ble Supreme Court in Civil Appeal Nos. 3173-3174/2006 and 3188-3190/2006. The upgraded replacement scale for Rs. 1400-2600 was Rs. 5500-9000, which was applicable to those who held Supervisor B/S Grade-I post as on 01.01.1996. The applicant retired prior to 01.01.1996. Therefore, this upgraded scale is not applicable to him. The pension of the applicant has been revised to Rs. 2594/- since 01.01.1996 based on Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Pension and Pensioners' Welfare, New Delhi, letter No. 45/86/97 P&PW(A) (Pt) dated 11.05.2001 in which clarification regarding Government of India letter dated 17.12.1998 was given as under :

"Pension of all the pensioners irrespective of their date of retirement shall not be less than 50% of the minimum of the corresponding scales as on 01.01.1996 of scale of pay held by the pensioners at the rime of superannuation/retirement."

6. The above clarification was upheld by the Hon'ble Supreme Court in its judgement dated 23.11.2006 in Civil Appeal No. 3174/2006 and other



cases referred to above. As the respondents had already implemented the order of this Tribunal dated 26.06.2006 and the pension of the applicant has been revised as per the ruling of the Apex Court mentioned above, there was no violation of rule or law on the part of the respondents.

7. In the rejoinder, the applicant submitted that he was working as Supervisor B/S Grade-I which had two categories of pay scales of Rs. 1400-2000 and Rs. 2000-2600. They were merged into one single scale of Rs. 5500-9000 by the V CPC and that his pension was rightly fixed at Rs. 2750/-.

8. We have heard Mr. P. Sunil Nair, learned counsel for the applicant and Mr. S. Jamal, learned ACGSC, appearing for the respondents and perused the material on record.

9. It is quite clear that the respondents had implemented the order of this Tribunal dated 26.06.2006. The clarification dated 11.05.2001 was upheld by Hon'ble Supreme Court in its judgement in Civil Appeal Nos. 3173-3174/2006 and 3188-3192/2006. The applicant had retired in 1990, long before the introduction of the revised pay scale as per the V CPC, which was made effective from 01.01.1996. The applicant has been given the benefit of revision of pension in accordance with the recommendations of V CPC. It is not the post held by an employee but the pay scale in which he retired that is to be taken into account for the purpose of all terminal benefits, pension including family pension because the post may undergo many changes on account of upgradation, merger, cadre restructuring etc.

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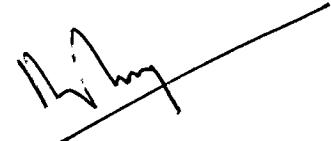
A pensioner cannot claim that his pension should be co-related with the changes subsequent to his retirement. Further, as the Hon'ble Supreme Court had upheld the clarification dated 11.05.2001 based on which the pension ordered by this Tribunal was revised downward at Rs. 2594/-, we do not find anything illegal in the matter.

9. Devoid of any merit, the O.A. is dismissed with no order as to costs.

(Dated, 21st February, 2011)



(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER



(JUSTICE P.R. RAMAN)
JUDICIAL MEMBER

cvr.