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CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH

Original Application No.171/2005

This the 18th day of March 2009

HON'BLE MR. SHANKER RAJU, MEMBER (J)
HON'BLE MRS. VEENA CHHOTRAY, MEMBER (A)

Radhey Shyam Pataria, Aged about 68 years, S/o late J.L. Pataria and R/o House No. E-2269, Rajajipuram, Lucknow.

.....Applicant

By Advocate: None.

Versus.



1. Union of India through Chairman Railway Board, Govt. Of India, Rail Bhawan, New Delhi.
2. Finance Advisor and Chief Accounts Officer, N.R. Headquarters Office Baroda House, New Delhi.
3. General Manager, Headquarter Office Baroda House, New Delhi.
4. Sr. Accounts Office (Works), N.R., Charbagh, Lucknow.
5. The Sr. Divisional Finance Manager, N.R., Lucknow.

.....Respondents.

By Advocate: Sri Praveen Kumar for Anil Srivastava

With

Original Application No.251/2005

Radhey Shyam (RS) Pataria, Aged about 65 years, S/o late J.L. Pataria, retired from the post of Stock Verifier under the respondents and resident of House No. E-3269, Rajajipuram, Lucknow.

.....Applicant

By Advocate: None.

Versus.

1. Union of India through Chairman Railway Board, Govt. Of India, Rail Bhawan, New Delhi.
2. Finance Advisor and Chief Accounts Officer, N.R. Headquarters Office Baroda House, New Delhi.
3. Sr. Accounts Office (Works), N.R., Charbagh, Lucknow.

.....Respondents.

By Advocate: Sri Praveen Kumar for Anil Srivastava

ORDER

By Shanker Raju, Member-J

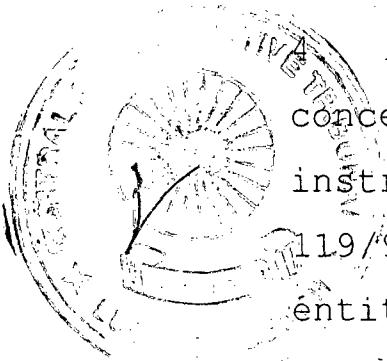
As these O.As of a retired Government servant are founded on identical facts with common question of law, are being disposed of by a common order.

2. The applicant who retired on superannuation on 31.12.1995 by virtue of deemed retirement as on 1.1.1996 seeks revision of pay and consequent increase in retrial dues by placing reliance on the decision of Kerala High Court in the case of **Union of India Vs. George (2004 (1) ATJ** and also the decision of Full Bench of the Tribunal at Nagpur in the case of **Rajagopalan and Another Vs. Union of India & Others (2000 (1) ATJ 1**

3. On the other hand, the brief holder of learned counsel for the respondents states that a person who already retired from service would not be deemed to retire on the next day of the month i.e. 1.1.1996 and relied upon the decision of **State of Punjab and Others Vs. Amar Nath Goyal and Ors. (2005 (2) SLJ SC 177** and also relied upon the decision of Ahmedabad Bench in the case of **K.C. Raval Vs. Union of India & Ors. reported in 2006 (2) ATJ 233.** Learned counsel would also rely upon the Full Bench decision rendered by Andhra Pradesh High Court in **Principal Accountant General Vs. C.**



Subba Rao and Others (2005 (2) ATJ 280) to contend that a Government servant who retires on the last date of the month ceases to be a Government servant by mid night of that day and he acquires the status of pensioner. He would be entitled to all benefits given to a pensioner w.e.f. the first day of succeeding month. It is stated by the learned counsel that in view of the aforesaid decision, the applicant is not entitled for any revision of his pay-scale and the relief claimed for.



As regards O.A. no. 251 of 2005 is concerned by virtue of Railway Board's instructions dated 24.5.1999 in RBE No. 119/99, it is stated that the applicant is entitled by virtue of his having retired on 31.12.1995 to add one additional increment fallen on 1.1.96 on legal fiction, which would enhance the pension by adding one increment. It is stated that non-fixation of pay rightly is a continuous cause of action and has also relied upon the decision of **M.R. Gupta Vs. Union of India and Others (AIR 1996 SC 669)**.

5. On the other hand, the brief holder of learned counsel for the respondents has vehemently opposed the contentions and stated that the applicant at the time of retirement was drawing Rs. 2360/- in Pay-Scale of Rs. 1400-2600/- and he retired on completion of age of superannuation i.e. 31.12.1995 and as such one additional

increment would not be added as fallen on 1.1.1996 as he ceases to be a Government servant by mid night of that day and he would acquire the status of pensioner. It is also stated that his pay has rightly been fixed in the pay-scale as per FR-22-C.

6. We have carefully gone through the records of the case and we are of the considered view that the applicant is not entitled to get one additional increment fallen on 1.1.1996 as he retired on the last date of the month would cease to be a Government servant by mid night of that day. Regarding other increments, the same has already been accorded to him as per FR-22-C.

7. Both the O.As fail and are accordingly dismissed. No costs.

8. Copy of this order be kept in each file.


(Mrs. Veena Chhotray)
Member-A


(Shanker Raju)
Member-J

Girish/-

19/3/99
19/3/99
19/3/99

(i) Date of Order 19/3/99
(ii) Date of Preparation 19/3/99
(iii) Date of Receipt 19/3/99