

Central Administrative Tribunal Lucknow Bench Lucknow.

Joint Application 427/2007 In DY. No. 432/2007

This the ^{3rd}~~th~~ day of October, 2007.

Hon'ble Mr. M. Kanthaiah, Member (J)

1. Shiv Ratan Singh aged about 79 years son of Late Udit Narayan Ex Railway Driver Grade A special an resident of village and post Gaddopur District Faizabad.
2. Fateh Bahadur aged about 81 years son of late Rameshwar Prasad Ex Railway Driver Grade A special and resident of Village Parwarbhari post Bhati District Faizabad and
3. Swami Prasad aged about 80 years son of late Ram Monorath Ex Railway driver Grade A Special and resident of Biharipur post Dabhyasemar District Faizabad.

Applicants

By Advocate Shri A.C.Mishra.

Versus

1. The Union of India through General Manager Headquarter office, Baroda House, New Delhi.
2. The Divisional Railway Manager, Northern Railway Divisional Office, Lucknow.
3. The Sr. Divl. Finance Manager, Northern Railway Divl. Office, Hazratganj, Lucknow. and
4. Hd. Post Master, Head Post Office, Faizabad.

Respondents

By Advocate Shri S. Lavania.

Order

B, Hon'ble Mr. M. Kanthaiah, Member (J)

The applicant No. 1 to 3 who are the pensioners have filed original application claiming for correct revision of their respective pensions with

the following reliefs mainly basing reliance on the RBE No. 201/2000 dated 21.11.2000 (Annexure 3) directing the respondent No. 2 and 3.

(i) To up -date and revise their pension, firstly taking into consideration the benefit of running allowance @ 75% of basic pay, reconsolidate their pay notionally as on 1.1.86 as per IV CPC---and again revise their pension as on 1.1.86 and again s 1.1.86 on the basis of sample of No. 2 contained in RBE No. 201/2000 -Ann. No. 1 to this application and continue its payment.

(ii) To provide copy of their service record, pension file and average emoluments as an interim measure so that the applicant may request the respondent to rectify the mistake if occurred in the earlier revision of their pension, as prayed for

(iii) To make payment of the difference of arrear of revision/re-computation of their pension in terms of railway boards letter contained in Annexure No. 1 along with interest @ 18% w.e.f. 1.1.96 to the date of payment.

(iv) To direct the respondent No. 4, to pay Rs. 60/- per month as P.P. to the applicant No. 1 Shiv Ratan Singh along with arrear as already mentioned in the P.P.O dated 28.5.2004 annexure No. 8 till their pension is again revised as per orders of this Tribunal passed in this application.

2. The applicants have filed this O.A. on 20.2.2007.

3. The applicant in the beginning of Para 3 (Limitation) of O.A. stated that some delay caused in filing this application as they are writing for correction of revision for respondent. In last para of it says that it is a case of continuing cause of action and is not barred by limitation as prayed for in Misc. Pet. Dated 15.2.2007 to this application.

4. The said Misc. Pet. Dated 20.2.2007 but not dated 15.2.2007, has been numbered as M.P. 428/2007, which is filed with a prayer to condone the delay in the interest of justice, stating that he has been representing the respondents for correct revision of their pension vide Annexure -4



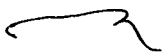
dated 16.9.2003, Annexure 5 dated 7.10.2003 and Annexure -6 dated 12.12.2006.

5. The respondents have filed preliminary objections and for dismissal of O.A. on the ground that the reasons shown for condonation of delay are not sufficient and further the same is vague and misconceived and also not in accordance with the procedure and thus the same is liable to be rejected. They have also taken other plea of premature O.A.

6. By way of reply to the said objection of the respondents the applicant No. 1 filed supplementary affidavit stating that the Government of India, Department of Pension & Pensioners Welfare, vide order dated 21.12.2006 extended the date of submission of application for revision of pensioners /family pension II up to 31.12.2007 (Annexure M/1) and thus their O.A. is within limitation.

7. Heard both sides for admission on condonation delay application and also on the ground of premature.

8. The applicant is not clear from the beginning in respect of any delay in filing this O.A. At one stage, he says that it is a continuation cause of action and thus not barred by limitation. But again filed M.P. with a prayer to condone the delay, stating that such delay occurred due to pendency of their representation covered vide Annexure 4,5, and 6. Subsequently, they came with supplementary affidavit of applicant No. 1 that the Government has extended the time for submitting application up to 31.12.2007 for correction of revision of pensions.

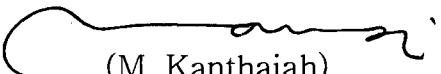


9. Admittedly, the applicants have not furnishing any justified reasons to condone the delay and also from which date such delay occurred and further such application is not supported with affidavit of any of the applicants and as such the same is not in accordance with the procedure and in view of such latches, the said application is liable for rejection.

10. But when it is the case of the applicant that the government has extended time till 31.12.2007 for submission of application for correction of revision of pension, which they sought in O.A., seeking of any condonation does not arise and even on this count also, the application for condone delay is liable for rejection since no requirement of such claim needed.

11. When it is the case of the applicants, that the time for submission of such claims by way of representation are extended till 31.12.2007, and want to rely on such letter M/1 dated 21.12.2006, there is no question of arising of any cause of action for filing this O.A. to the application and thus it is nothing but exactly premature O.A. and on such ground, it is liable for rejection with a liberty approach the Tribunal after passing orders on their representations if they are aggrieved with such finding.

12. In view of the above circumstances, the O.A. is rejected at this admission stage with a liberty to the applicants to approach the Tribunal after exhausting departmental remedy, i.e. issuing of any orders on their representations, if they aggrieved with such result. No costs.


(M. Kanthaiah)
Member (J)
03-10-2007