

Central Administrative Tribunal, Lucknow Bench, Lucknow

Original Application No. 298 of 2005

This the ^{18th} day of July, 2007

HON'BLE SHRI A.K. SINGH , MEMBER (A)

Gyas Ahmad aged about 61 years son of late Mohammad Ahmad R/o Mehenditola, Aliganj, Lucknow.

Applicant

By Advocate; Sri Alok Trivedi

Versus

1. Union of India through Director General, Geological Survey of India, Govt. of India, Central Head Quarters, 4, Chowranghee Lane, Kolkatta.
2. The Sr. Dy. Director General, Geological Survey of India, Govt. of India, Northern Region, Sector E, Aliganj, Lucknow.
3. The Regional Administrative officer (SG), Geological Survey of India ,GOI, Northern Region, Sector E, Aliganj, lucknow.
4. The Accounts Officer, Pay and Accounts Office, Geological Survey of India, GOI, Northern Region, Sector E, Aliganj, Lucknow.

Respondents

By Advocate; Sri D.S. Tewari

ORDER

By Hon'ble Sri A.K. Singh, Member (A)

The O.A. 298 of 2005 has been filed by one Sri Gyas Ahmad (of the address given in the Original Application) against incorrect calculation of his retiral benefits such as gratuity, commutation of pension and family pensions, by the respondents.

2. The brief facts of the case are that the applicant was initially engaged as a contingent worker on casual basis in the office of the Respondent No. 2 , namely Sr. Dy. Director General, Geological Survey of India, Govt. of India, Northern Region, Sector E, Aliganj, Lucknow. According to the applicant, he was regularized on Group 'D' post of Techl Berrar w.e.f. 1.4.1971, after being duly selected by a validly constituted committee. He was further promoted as Technical Helper in the year 1991. He was also granted the benefits of ACP scheme w.e.f. 9.8.1999. The

applicant's pay was fixed at Rs. 3235/- in the pay scale of Rs. 3050-4590. The applicant further submits that his service records were misplaced and had to be re-casted by the respondents. During the course of re-casting, however, erroneous entries in the service book by respondents resulted into incorrect preparation of the pay bills. The pay slips issued to him for example, for the month of December, 2003, the basic pay of the applicant has been shown as Rs. 3950/- while the pay slip for the month of May, 2004, shows his basic pay as Rs. 3950 which is erroneous.

3. A perusal of computation sheet also reveals that basic pay of the applicant is 3875/- whereas it should have been Rs. 4025/-. This incorrect statement has led to erroneous computation of his monthly pension, gratuity etc.

4. On the basis of the above, the applicant seeks the following reliefs:-

- i) to set aside the impugned computation sheet (as contained in Annexure No.1 to the O.A.), as the same is arbitrary and erroneous.
- ii) to correct computation sheet, taking the basic pay of the applicant as Rs. 4025/-
- iii) any other order or direction which this Hon'ble Tribunal may deem fit and just in the circumstances of the case.

5. Respondents on their part have oppose the Original Application. They submit that no incorrect entries have been made in the service book of the applicant. The service book of the applicant was prepared in accordance with law. They also submit that so far as the basic pay of Rs. 3950/- for the month of December 2003 is concerned, it was determined prior to sanction / regularization of leave cases (1011 days EOL). No increment was accordingly allowed. Hence the respondents submit that O.A. is devoid of any merit and therefore, the same should be dismissed.

6. Both applicant as well as respondents were heard on 01.06.2007. Sri Alok Trivedi, Advocate appeared on behalf of the applicant and Sri D.S. Tewari, Advocate appeared on behalf of the respondents. At the time of personal hearing, both sides reiterated their arguments, as above.

7. I have given my anxious consideration to the submissions made by the learned counsels on both sides and have perused the records. I find that the correct facts have not been properly brought out by either side before the Tribunal at any stage. On perusal of the records, I find that there is no other anomaly except that applicant was not allowed the benefit of increment during the period of his long leave of 1011 EOL. It is conceded by the respondents in para 10 of their Counter Reply, -

“It is further stated that so far as basic pay of Rs. 3950/- for the month of December, 2003 is concerned, it was prior to the regularization of leave cases (i.e. 1011 EOL) for which no increment was admissible and it remained intact in the month of May, 2004.”

8. The pensionary benefits and other retiral dues were calculated by respondents on the basis of basic pay of Rs. 3950/- for the month of December, 2003 as no regular leave was sanctioned to the applicant for a long period of absence of 1011 days. The absence of the applicant during the period was however, regularized by sanction of regular Extra Ordinary Leave for 1011 days. The applicant on regularisation of leave for the aforesaid period should have been allowed his normal incremental benefits for the aforesaid period. The annual incremental benefits can be substantial stopped only as a measure of punishment and not otherwise. Hence there is merit in the O.A when it states that pensionary benefits should be calculated taking into account the basic pay of Rs. 4025/- as the applicant was earning regular increments at the rate of Rs. 75/- per year. Accordingly pensionary as well as other retiral benefits of the applicant require to be re-calculated on that basis. Any dues pending with the applicant, however, be recovered in accordance with law. Accordingly, O.A. 298/2005 is allowed with all consequential benefits in favour of the applicant. Parties to bear their own cost


Member (A)

HLS/-

18/7/07