

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH

Registration No. OA-628 of 1996

(Date of order 12.12.1997)

Versus

Coram: Hon'ble Mr. Justice V.N.Mehrotra, Vice-Chairman

O R D E R

Hon'ble Mr. Justice V.N.Mehrotra, Vice-Chairman :

This OA has been filed under Section 19 of the Administrative Tribunals Act, 1985 praying that the respondents be directed to pay full pension to the applicant with effect from 1.10.1986 as admissible to him.

The applicant has also prayed for recovery of interest on the amount of delayed payment of pension and gratuity.

2. The applicant has alleged that he joined as Junior Clerk-Cum-Typist on 18.1.1966 in Coal Mines Labour Welfare Organisation under the Ministry of Energy, Govt. of India at Asansol, where he served till 30.9.1986. The said Deptt. was abolished and was merged with Coal India Limited under the orders of the Government of India. The applicant was transferred to Coal India Limited and his services there were confirmed with effect from 1.11.1979. The applicant has been sanctioned pension with effect from 18.1.1996 instead of 1.10.1986 as should have been done under the orders by the Government of India dated 5.7.1989(Annexure-A1(A)). The applicant represented against the fixation of his pension with effect from 18.1.1996 instead of 1.10.1986 but no reply was received. He then sent reminder on 14.9.1996 but it was also not replied to. The applicant asserts that a similar matter came up for hearing before this Bench in OA-320 of 1994 Maithili Sharan Prasad Vs. Union of India & Ors. in which the Bench took the view that the pension should be granted from 1.10.1986.

3. The respondents have in their written statement not challenged the facts asserted by the applicant. They have, however, alleged that the decision taken by the Patna Bench in OA-320 of 1993 which was upheld by the Hon'ble Supreme Court of India was applicable to the applicant of that case only. The respondents have further asserted that the applicant was entitled to get pensionary benefits on completion of 30 years of service. His case was considered according to the rules and pension was rightly granted to him.

4. I have heard the learned counsel for the parties and perused the material on record. As will appear from the facts narrated by the applicant in the OA, he was employed as Junior-Clerk-Cum-Typist on 18.1.1966 in Coal Mines Labour Welfare Organisation under the Ministry of Energy, Govt. of India where he served till 30.9.1986. That Department was abolished and was merged with Coal India Limited. As asserted by the applicant, he was confirmed vide Office Order No.40 of 1980 with effect from 1.11.1989.

5. The learned counsel for the applicant has placed reliance on the Government orders issued in the year 1989 (Annexure-A-1(A) in support of his contention and has argued that under Clause (d)(ii) he was entitled to get pro-rata pension with effect from 1.10.1986 which is the date of his permanent absorption in the Coal India Limited. Clause (d)(ii) is applicable to permanent Central Government servants who have completed 10 years or more of service and who opt for the retirement benefits of PSU/Autonomous Body. Such persons will be entitled to receive pro-rata pension for the service rendered under the Government with effect from the date of their permanent absorption in the PSU/Autonomous Body. The same clause also provides that no part of pro-rata pension will be allowed to be

commuted either at the time of permanent absorption or any time thereafter. Thus considering this provision, the applicant was entitled to get pro-rata pension with effect from 1.10.1986 and not from 18.1.1996 as has been done in this case.

6. In OA-320 of 1993, Maithili Sharan Prasad vs. Union of India & Others decided on 31.8.1994, this Bench had considered the similar matter and a view as propounded by the learned counsel for the applicant in the present case was taken. The SLP filed by the Union of India was rejected by the Hon'ble Supreme Court on 31.8.1994 (Annexure-A/3).

7. In view of the above facts the applicant will be entitled to get pro-rata pension with effect from 1.10.86 instead of 18.1.1996 as allowed by the respondents. The learned counsel for the applicant has also prayed that the respondents should be directed to pay interest on delayed payment of pension and gratuity. The same, has, however, been opposed by the learned Senior Standing Counsel. The facts brought out on the records indicate that actually the applicant had received an amount of Rs.20965/- as commuted value of 1/3rd of pension in the year 1986 itself. That amount is still with the applicant. The applicant is thus utilising that amount though the pro-rata pension could not have been commuted, as mentioned earlier. In view of this fact I do not find any sufficient ground for directing the respondents to pay interest to the applicant. The amount of Rs.20965/- relating to the commuted value of 1/3rd of pension, which is with the applicant, can be adjusted against the arrears of pro-rata pension payable to the applicant with effect from 1.10.1986.

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8. The OA is allowed to the extent that the respondent's shall pay pro-rata pension to the applicant with effect from 1.10.1986 and not from 18.1.1996 as has been done in this case. The amount of arrears of pension payable to the applicant shall be adjusted from the amount of Rs.20965/- paid to the applicant as commuted value of 1/3rd of pension. The balance of arrears, if any, shall be paid to the applicant within a period of three months from the date on which a certified copy of this OA is produced before the appropriate authority. No order as to costs.

V.N.Mehrotra
12.12.97
(V.N.Mehrotra)
VICE-CHAIRMAN