

CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT MUMBAI

ORIGINAL APPLICATION No. 155/1996

Date of Decision: 3.9.1996

C.Periyasamy

Petitioner/s

Shri A.I.Bhatkar

Advocate for the
Petitioner/s

V/s.

Union of India & Ors.

Respondent/s

Shri S.S.Karkera for Sh.P.M.Pradhan

Advocate for the
Respondent/s


CORAM:

Hon'ble Shri P.P.Srivastava, Member (A)

Hon'ble Shri

(1) To be referred to the Reporter or not ? X

(2) Whether it needs to be circulated to
other Benches of the Tribunal ? X


(P.P.SRIVASTAVA)

MEMBER (A)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

OA.NO.155/96

Tuesday, this the 3rd day of September, 1996

CORAM: Hon'ble Shri P.P.Srivastava, Member (A)

C.Periyasamy, ACAO (Retd.),
residing at A/63, Mala Towers,
S.B.I.Officers' Quarters,
Lokhandawala Complex,
Andheri (W), Bombay.

By Advocate Shri A.I.Bhatkar

... Applicant

V/S.

1. Union of India through
The Secretary,
Ministry of Communication,
Deptt. of Telecommunication,
Sanchar Bhawan, New Dehil.
2. The Chief General Manager,
Western Telecom Project,
Phoenix Mill Compound,
Parel, Bombay.

By Advocate Shri S.S.Karkera
for Shri P.M.Pradhan, C.G.S.C.

... Respondents

O R D E R (ORAL)

(Per: Shri P.P.Srivastava, Member (A))

Heard Shri Bhatkar, Ld. counsel for the applicant
and Shri Karkera, Ld.counsel for the respondents.

2. The applicant was working as Accounts Officer
and retired on 31.5.1992. The applicant along with
others have filed an OA. for stepping up of pay
which was decided on 19.7.1994. According to this
decision, the applicant was given stepping up of
pay notionally and the arrears to be paid from
6.9.1992. However, the applicant had since retired
from 31.5.1992 and his fixation on the last pay drawn
would also be on notional basis.

.. 2/-

3. Counsel for the respondents Mr. Karkera has argued that in terms of Rule 33 of Pension Rules, wherein it has been mentioned that "provided that any increase in pay (other than the increment referred to in Note 4) which is not actually drawn shall not form part of his emoluments", the applicant would not be entitled to any revision in the pension as the increment which would become due as a result of Tribunal's orders are on notional basis and there is no increase in pay which has actually been drawn by the applicant.

4. I have considered the arguments, but I am unable to agree with the same. The Tribunal's orders are quite clear in that the applicant has been granted fixation but the restriction of actual payment is based on the limitation which is applicable on the cases which are filed in the Tribunal and that is why the actual payment has been restricted for one year from the date of filing of the OA, which works out to be in this case as 6.9.1992. The provisions of the rules in Para 33 would not be applicable in this case as this is a special case wherein the applicant's pay has been stepped up as a result of the Tribunal's order. Therefore, the applicant would be entitled to notional fixation of pay at the time of retirement and his pension should be worked out on the basis of last pay which he would have drawn as a result of notional pay and his pension should be fixed on the basis of the notional pay. His pension as on 6.9.1992 should be worked out and the enhanced pension would accrue to the applicant only from 6.9.1992



and he would be entitled to arrears of pension from 6.9.1992. Since the applicant has not been drawing the enhanced pay at the time of his retirement, he would not be entitled to any arrears of commutation of pension, DCRG, encashment of leave salary etc. The payment of arrears which would accrue as a result of this order to be paid within a period of four months from the date of receipt of this order. The OA. is disposed of with the above directions. There will be no order as to costs.



(P.P.SRIVASTAVA)
MEMBER (A)

mrj.