

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO.: 368 of 2000

Dated this Monday, the 6th day of November, 2000.

CORAM : Hon'ble Shri B. N. Bahadur, Member (A).

Hon'ble Shri S. L. Jain, Member (J).

C. Periyasamy, ACAO (Retired),
Residing at - A/63, Mala Towers,
S.B.I. Officers Quarters,
Lokhandwala Complex,
Andheri (West),
Mumbai - 400 053.

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Applicant

(By Advocate Shri A. I. Bhatkar).

VERSUS

1. Union of India through
The Secretary,
Ministry of Communications,
Deptt. of Telecommunications,
Sanchar Bhawan,
New Delhi - 110 011.

2. The Chief General Manager,
Western Telecom Projects,
Phoenix House,
Senapati Bapat Marg,
Lower Parel,
Mumbai - 400 013.

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Respondents.

(By Advocate Shri V. S. Masurkar)

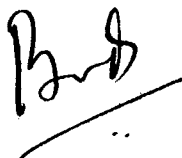
OPEN COURT ORDER

PER : Shri B. N. Bahadur, Member (A).

This is an application made by Shri C. Periyasamy,
A.C.A.O. (Retired) seeking the reliefs as follows :

"(a) This Hon'ble Tribunal will be graciously
pleased to call from the records pertaining to
issuance of the impugned order dated 10.05.2000
and after going through the legality and validity
of the same quash and set aside the same.

(b) This Hon'ble Tribunal will be graciously
pleased to pass such other and further orders as
deemed fit in the facts and circumstances of the
case.



(c) That the cost of this application be awarded to the Applicant."

2. We have heard the Learned Counsel, Shri A.I. Bhatkar for the Applicant and Shri V. S. Masurkar, for the Respondents today. We have also seen the application and Annexures filed and the written statement of the Respondents and Annexures filed thereto.

3. At the outset, we may state that this case is linked to the cases decided today by us through separate orders. The first order related to O.A.No. 182/99, 213/99 and 408/99. The second order also made today came in the case of Shri D.V.S. Prabhakar Rao in O.A. No. 235/2000.

4. The facts in this case is distinct from the facts in the case of other Applicants in the aforesaid O.A. as follows :

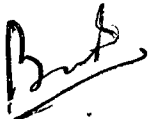
The present Applicant was one of the applicants in the batch of O.As. filed in this Tribunal in 1993, which came to be decided by a common order dated 19.07.1994. This has been discussed in some detail in the order on other O.As. referred to above.

In the judgement dated 19.07.1994 the benefit of payment of arrears was granted to all the Applicants, including the present applicant (Shri C. Periyasamy) from a date one year prior to the filing of the O.A. i.e. 06.09.1992 in the present case. Now it so transpires that the present Applicant retired on superannuation on 31.05.1992. In other words, when the O.A. came to be decided in July, 1994, he had already retired. Not only that, the benefit in so far as it relates to the payment of arrears comes on a date which is subsequent to his date of



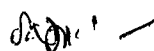
retirement. The decision in the present O.A. will need to be taken taking the above circumstances and chronology into account. The Learned Counsel for the Respondents in his arguments had taken the stand as taken in the written statement of the Respondents. He specially drew attention to the pleadings made in para 7 of the written statement, page 49 of the paper book. We have carefully considered these pleadings/arguments.


5. Now it must be seen in this case that since the benefits were not allowed to the applicant, he had to come up through another O.A. before this Tribunal. This Tribunal decided the O.A. No. 155/96 on 03.09.1996. A copy of this has been filed by the applicant at exhibit-4 (page 30). We have carefully gone through this order and find that even today it stands, especially in view of the later developments in terms of the order of the High Court in Writ Petition No. 3054/99, as discussed separately in our orders today on the other O.As. In fact, as could be seen at exhibit-4 and the annexures to the Written Statement, we find that an order was passed by the Chief General Manager, Telecom, Mumbai dated 20.03.1997 stepping up the pay of the applicant notionally. The order stated that the fixation was without any financial benefit upto 05.09.1992 and that the enhanced pension is payable w.e.f. 06.09.1992. Thereafter, the same office of the Chief General Manager issued the impugned order on 10.05.2000 (exhibit-1) through which the pension of the applicant was reduced to that of the original pension w.e.f. 12.09.1997 and it was also ordered that the over-payment made from the said date onwards was recoverable.



6. Now in view of the detailed discussions made by us in our orders on O.A. Nos. 182/99, 213/99 and 408/99, we need not repeat our arguments as to why the action of the respondents in reducing the pension was wrong. The same reasons apply in the present case also. The implication of this would be that the impugned order of the Department of Telecommunication dated 10.05.2000 can be held to be wrong and would need to be quashed. It would also hold that the order of the Tribunal dated 03.09.1996 would need to be implemented.

7. This O.A. is therefore allowed. The impugned order dated 10.05.2000 is hereby quashed and set aside. No order as to costs.


(S.L. JAIN)
MEMBER (J)



(B. N. BAHADUR)
MEMBER (A).

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