

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH: :MUMBAI

REVIEW PETITION NO. 30/2002  
IN  
ORIGINAL APPLICATION NO. 809/2001

THIS THE 22<sup>TH</sup> DAY OF AUGUST, 2002

CORAM: HON'BLE SHRI JUSTICE BIRENDRA DIKSHIT  
VICE CHAIRMAN  
HON'BLE SMT. SHANTA SHAstry. MEMBER (A)

Union of India And Others. ... Review Petitioners/  
Original Respondents

Versus

Shri J.A. Khan ... Respondent/  
Original Applicant

O R D E R  
Hon'ble Smt. Shanta Shastry. Member (A)

This review petition has been preferred against the order dated 10.4.2002 passed in OA 809/2001 by the original respondents. The operative part of the order reads as follows:

"We direct the respondents to grant the stepping up of pay to the applicant with reference to Smt. Vaswani from the date her pay was fixed higher than that of the applicant. The applicant's pay be refixed in the grade of selection grade Auditor i.e. from 20.5.1975 at Rs.600/- in place of Rs.560/-. Pay fixation may be done consequently in the higher grades of Selection Officer/ Assistant Audit Officer and Audit Officer as well as subsequent promotion post. The entire pay fixation will be on a notional basis. The applicant shall be entitled to arrears of pay on account of refixation of pay only from one year prior to the date of filing of this application i.e. from 20.11.2000. This exercise shall be completed within a period of 2 months from the date of receipt of a copy of this order. The O.A. is allowed accordingly, without any cost."

According to the review petitioners, as per orders of

the Tribunal, the pay of the applicant was to be stepped up only notionally and arrears of pay were to be paid from 20.11.2000. However, the applicant had retired on 30.9.1996, therefore, no arrears can be paid to him. However, as per the extent pension rules, pension is based on average of last 10 months of pay actually drawn by the Government servant. Since the applicant had not actually drawn the amount of stepped up pay and it was only notional fixation, enhanced rate of pension is not admissible to him. The petitioners, therefore want the order dated 10.4.2002 to be revised.

2. The petitioners have further argued that repeated representations by the applicant could not extend the period of limitation as held in the case of S.S. Rathore Vs. State of Madhya Pradesh and therefore, the condonation of delay by the Tribunal also needs to be reviewed.

3. The present application has been filed on 21.6.2002 i.e. after more than one month after the order was passed. The petitioners have filed MP for condonation of delay. According to them, they received the certified copy on 01.5.2002 and due to summer vacation, there was delay in filing of the review petition.

4. We have perused the grounds taken in the review petition for review. According to us, having allowed

the OA, it goes without saying that the applicant was entitled to all the consequential benefits and therefore, though the pay was to be fixed notionally from 20.11.2000, his pension also would have to be enhanced notionally and arrears shall become payable only from 20.11.2000 onwards. According to us, therefore, the applicant shall be entitled for enhanced pension from 20.11.2000. Therefore, the order does not call for any review. Thus, on the ground of limitation as well as on merits, the review petition is dismissed.

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(SMT. SHANTA SHAstry)  
MEMBER (A)

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(BIRENDRA DIKSHIT)  
VICE CHAIRMAN

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