

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 1134/94

Transfer Application No.

Date of Decision

14/11/95

Shri O.J.Ramchandani

Petitioner/s

Shri R.C.Ravalani

Advocate for
the Petitioners

Versus

Union of India & Ors.

Respondent/s

Shri R.K.Shetty

Advocate for
the Respondents

CORAM :

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

Hon'ble Shri.

- (1) To be referred to the Reporter or not ?
- (2) Whether it needs to be circulated to other Benches of the Tribunal ?

(P.P.SRIVASTAVA)

MEMBER (A)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

OA.NO. 1134/94

Shri Odharmal Jethanand Ramchandani ... Applicant
v/s.

Union of India & Ors. ... Respondents

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

Appearance

Shri R.C.Ravalani
Advocate
for the Applicant

Shri R.K.Shetty
Advocate
for the Respondents

JUDGEMENT

(PER: P.P.Srivastava, Member (A))

Dated: 14/11/95

The applicant was working as UDC in Ammunition Factory, Khadki and retired from service on 31.1.1984. His pension was fixed at Rs.127/- and he was allowed to commute Rs.42/- resulting in reduction of his pension to Rs.85/-p.m. Afterwards, the applicant's qualifying service was changed and his pension was revised and refixed at Rs.289/- retrospectively from 31.1.1984. He was also allowed to commute additional Rs.54/- that is making total commutation as Rs.96/-. The additional commuted value was commuted in November, 1987 and he was being paid reduced pension of Rs.193/- w.e.f. 1.12.1987. Although the commutation was permitted, the bank continued to pay the applicant full pension and his pension ~~was not~~ reduced ^{from} Rs.289/- to Rs.193/- p.m. Although, the paying Bank had reduced the pension to Rs.85/- w.e.f. 1.2.84 the said Bank erred in not reducing the pension to Rs.193/- w.e.f. 1.12.1987, resulting in over-payment of Rs.96/- p.m. upto



.. 2/

1.1.1994. This error was brought to the notice of the Bank by the Audit Team of Respondent No. 2, i.e. The Controller of Defence Accounts (Pensions) Allahabad. The Audit Team directed the Bank to recover the amount of Rs.96/- p.m. w.e.f. 1.2.1984 as the pension of the applicant was revised from 1.2.1984. Aggrieved by this order of [redacted] the bank on the basis of the report of the Audit Team, the applicant has approached the Tribunal through this OA. and has sought the relief that the Respondent No. 2 be directed to revise the instructions issued to Bank to deduct the commutation portion of pension in two stages in accordance with the Rules, i.e. Rs.42/- from 1.2.1987 to 30.11.1987 and @ Rs.96/- from 1.12.1987 onwards and to refund the excess deduction alongwith interest at 15%.

2. The counsel for the applicant has relied on Rule 6 (1)(b) and Rule 10 of C.C.S.(Commutation of Pension) Rules, 1981. Rule 6 (1)(b) reads as under :-

"(b) in the case of an applicant who is drawing pension from a branch of a nationalised bank, the reduction in the amount of pension on account of commutation shall be operative from the date on which the commuted value of pension is credited by the bank to the applicant's account to which pension is being credited."

Rule 6 (2) reads as under :-

"(2) In the case of an applicant referred to in Rule 9 or Rule 10, the commuted value is paid in two stages. The reduction in the amount of pension shall be made from the respective dates of the payments as laid down in clause (a) or clause (b) of the Proviso to sub-rule (1)."



Rule 10 reads as under :-

"10. Retrospective revision of final pension

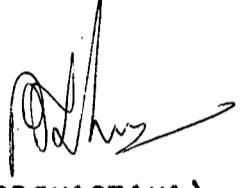
An applicant who has commuted a fraction of his final pension and after commutation his pension has been revised and enhanced retrospectively as a result of Government's decision, the applicant shall be paid the difference between the commuted value determined with reference to enhanced pension and the commuted value already authorised."

3. The counsel for the applicant has stated that in terms of these rules it is quite clear that since the applicant was paid the enhanced commuted value from 1.12.1987, the deduction of enhanced value of commutation i.e. Rs.54/- should be made in terms of Rule 6 (2), proviso (b) to Rule 6 (1).

4. The respondents have not brought out any material to rebut these provisions of this Rule. In Para 10 of the reply the respondents have brought out that "it was the duty of the applicant to have voluntarily brought to the notice of the concerned authorities the excess payment being made to the applicant w.e.f. 1.2.1984 by the said bank, and that the applicant by not bringing to the notice of the respondents the excess payment to the applicant has violated para 8(1)(a) of the CCS(Pension) Rules, 1972." The respondents have relied on the audit report to justify the deduction of enhanced value of commutation from the date of retirement. The ratio of the Rule laid down at Rule 6(1)(b) makes it quite clear that the reduction in amount of pension on account of commutation shall be operative from the date on which the commuted value of pension is credited by the bank to the applicant's account

to which pension is being credited. Rule 6(1)(b) alongwith Rule 6(2) makes it quite clear that the applicant's pension should have been reduced ~~to~~ Rs.85/- w.e.f. 1.2.1984 and ~~to~~ Rs.193/- w.e.f. 1.12.1987.

5. Consequently, we allow the OA. and direct that the respondents will revise the instructions issued to Bank and deduct the commutation portion of the pension at the rate of Rs.42/- from 1.2.1984 to 30.11.1987 and at the rate of Rs.96/- from 1.12.1987 onwards. The respondents are directed to refund the excess deduction already ~~been~~ made. The action should be completed by the respondents within a period of three months from the date of receipt of this order. The OA. is disposed of with the above direction. There would be no order as to the costs.


(P.P. SRIVASTAVA)
MEMBER (A)

mrj.