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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL JAIPUR BENCH
JAIPUR.

O.A. NO. 731/1989

Date of order: 25.9.1995

All India Services Pensioners' Association (Rajasthan) and another

: Applicant

Versus

Union of India and others

: Respondents.

None for the applicants

Mr. U.D.Sharma, Counsel for the respondents

CORAM:

HON'BLE MR. O.P.SHARMA, MEMBER (ADMINISTRATIVE)
HON'BLE MR. PATTANPRAKASH, MEMBER (JUDICIAL)

O R D E R

(PER HON'BLE MR. O.P.SHARMA, MEMBER (ADMINISTRATIVE))

In this application under Section 19 of the Administrative Tribunal's Act, 1985, All India Services Pensioners' Association (Rajasthan) and Shri H.L.Baraya, IAS (Retired) have prayed as under:-

"(i) The liberalised pension scheme as contained in Office Memorandums & notification marked Annexure A-4, 6 and 7 be held to be illegal and unconstitutional as violative of Article 14 of the Constitution to the extent that the benefit of liberalised pension scheme is extended only to those Government Servants who retire on or after March 31, 1985. All pensioners including the petitioners and persons represented by the petitioner 1, governed by the All India Services (Death-cum-Retirement Benefits) Rules, 1958 should be entitled to pension as computed under the liberalised pension scheme under the said impugned memorandums & notification (Annexure 4, 6 and 7) from March 31, 1985 irrespective of the date of retirement. There should be no ceiling

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of Rs.1500/- per month in fixing the pension. The pension of petitioner No.2 and of persons represented by petitioner No.1 should be redetermined under Office Memorandum & Notification (Annexures 4,6 and 7) and for that purpose, in computing average emoluments under rule 18 read with rule 2(1)(aa) of the said Rules, Dearness Allowance, Additional Dearness Allowance and Ad-hoc Dearness Allowances linked upto the average index 568 should also be treated as Dearness pay with effect from the dates from which these were sanctioned. The persons represented by Petitioner No.1 and Petitioner No.2 should also be entitled to commute one third of the pension so determined as per the Rules, and they should also be entitled to death-cum-retirement gratuity as per liberalised pension scheme under which the limit is raised from Rs.36,000/- to 50,000/- and subsequently to one lac w.e.f. 1.1.86. The respondents be directed to re-fix the pension with effect from 31.3.85, pay arrears of difference in pension as a result of such re-fixation, additional commuted value of pension as stated above within a specified period, say two months from the date of the order of the Tribunal.

ii) The note below the proviso to sub-rule (2) of rule 18 of the All India Services (Death-cum-Retirement Benefits) Rules, 1958 inserted by the amending Notification dated May 22, 1987 (Annexure A.10) and the Office Memorandum dated March 5, 1987 in so far as it applies to All India Services be declared illegal and unconstitutional as violative of article 14 of the Constitution. All pensioners including Petitioner No.2 and the persons represented by the Petitioner No.1 governed by the All India Services (Death-cum-Retirement Benefits) Rules should be entitled to pension as computed under the said Rules as amended by Notification dated May 22, 1987 (Annexure A.10) with effect from January 1, 1986 irrespective of the date of retirement. Pension of Petitioner No.2 and persons represented by Petitioner No.1 should be redetermined under the said Rules as amended in 1987 after fixing them as on 1.1.86 in the liberalised revised pay scales introduced with effect from 1.1.86 as if they were in service on that date and retired soon thereafter and they should also be entitled to difference of death-cum-retirement gratuity computed on the revised pay and that already paid with the ceiling raised to rupees one lac. The respondents be directed to re-fix the pension pay arrears of difference in pension as a result of such re-fixation and also difference of gratuity within specified period, say two months from the date of receipt of the order passed in this petition.

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iii) The respondents be directed to pay interest at the current market rate of 13% on the amount found due with effect from the date it fell due."

2- In fact the prayer of the applicants is that they should first be granted pensionary benefits as available under Annexure A-4 dated 19.5.1985 to those All India Service Officers who retired from service on or after 31.3.1985 and then those available under Annexure A-10 dated 20.5.1987 to those All India Services Officers who retired on or after 1.1.1986. The crux of the averments of the applicants is that ~~not~~ granting the same pensionary benefits to All India Services Officers who retired earlier as available to those who retired subsequently would be discriminatory and violative of Article 14 of the Constitution. None is present on behalf of the applicants. We have heard the learned counsel for the respondents and have gone through the material on record.

3- The learned counsel for the respondents cited before us a judgment of the Hon'ble Supreme Court in Action Committee South Eastern Railway Pensioners and others vs. Union of India and others, 1991(1) SLR 771 in which the petitioners Action Committee and others had claimed that they may be granted same pensionary benefits as had been granted to Railway Servants retiring on or after 31.3.1985 vide Circular dated 17.5.1985 issued by the Ministry of Railways. The Hon'ble Supreme Court after considering their earlier judgments in Krishan Kumar vs. Union of India and others, JT 1990(3)SC 173 and D.S.Nakara

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Vs. Union of India, 1983 (2) SLP 246, held that no such claim can be permissible on any principle of equality enshrined under Article 14 of the Constitution in as much as the petitioners formed a different class from those who were continuing in service on or after 31.3.1985. Following the same principle, we hold that the All India Services Pensioners' are not entitled to the same pensionary benefits as are available to those All India Service Officers who retired on or after 31.3.1985 and who are entitled to pensionary benefits in terms of Annexure A-4 dated 18.5.1985.

4- As regards the claim for pensionary benefits including gratuity payable to All India Service Officers retiring on or after 1.1.1986 as available under Annexure A-10 dated 22.5.1987, the learned counsel for the respondents drew our attention to an order of the Ernakulam bench of the Tribunal in P.N. Anandan Pillai Vs. Union of India and others, 1995 (1) SLJ (CAT) 256, wherein the Tribunal held that the classification between those who retired before 1.1.1986 and those who retired on or after that date is valid. Therefore, the claim for grant of the same pensionary benefits as available to those retiring on 1.1.1986 or thereafter was negatived. Our attention was also drawn to an order of the New Bombay Bench of the Tribunal in Dr. Balasubramaniam Vs. Union of India and others, 1990 (6) SLR 421, in which the Tribunal referred to the judgment of Hon'ble Supreme Court in SLP No.14179-80 of 1985, State Government Pensioners' Association and others

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vs. State of Andhra Pradesh and Writ Petition(Civil)
No.3531-3534 of 1983 N.L.Abbiyankar vs. Union of India
in which a claim for revised gratuity was rejected
by Hon'ble the Supreme Court mainly on the ground
that gratuity paid is one time payment and persons
who retired in 1950, 1960, 1970 etc. cannot rely
on Article 14 for seeking increase in the ceiling
on gratuity. Relying on the aforesaid judgments, the
Tribunal rejected the claim for enhanced gratuity as
admissible to those retiring from 1986 onwards. In the
present case also therefore the claim of the
All India Services Pensioners' for enhanced pensionary
benefits as available to those retiring on 1.1.1986 and
thereafter and increase in gratuity as available to those
retiring on or after 31.3.1985 and 1.1.1986 is rejected.
Since the claims preferred by the applicants are
squarely covered by the judgments referred to above,
it
we have not deemed it necessary to enter into a very
elaborate discussions of the claims of the applicants
and the grounds in support of those claims.

5- For the reasons mentioned above the OA is
dismissed with no order as to the costs.

Ranganath
(RATTAN PRAKASH)
MEMBER (J)

O.P. Sharma
(O.P. SHARMA)
MEMBER (A)