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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL JAIPUR BENCH: JAIPUR.

O.A.NO.916/92

Date of order: 2.1.1997

A.B.Vyavahare

: Applicant

Vs.

1. Union of India through Secretary, Ministry of Communications, Department of Posts, Dak Bhawan, New Delhi.
2. Chief Post Master General, Rajasthan Circle, Jaipur.
3. Post Master General, Western Region, Jodhpur.
4. Superintendent of Post Offices, Bikaner Division, Bikaner.

: Respondents

Mr. C.B.Sherma, counsel for the applicant
Mr. K.N.Shrimal, counsel for respondents

CORAM:

HON'BLE SHRI O.P.SHARMA, MEMBER (ADMINISTRATIVE)
HON'BLE SHRI RATAN PRAKASH, MEMBER (JUDICIAL)

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

In this application under Section 19 of the Administrative Tribunals Act, 1985 Shri A.B.Vyavahare has claimed various reliefs with regard to fixation of his pension on retirement from service from the Department of Posts on 31.8.1977. The basic grievance of the applicant is that while his provisional pension was fixed at Rs. 357/-, it was revised down-wards to Rs. 340/- by issue of final Pension Payment Order (P.P.O.). On account of this reduction of Rs. 17/- in the pension payable to him, there were consequential reductions in other pensionary dues as also recoveries from the pensionary dues already paid to him.

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2. The final F.P.O. in this case was issued on 26.7.1978 (Annexure A/5). The respondents have taken an objection to the maintainability of this O.A. on the ground of limitation. The learned counsel for the applicant claims that limitation should be reckoned with reference to the date of Annexure A-1(a) dated 30.12.1991 which is a decision taken by the Post Master General, Rajasthan Western Region, Jodhpur in Dak Adalat, by which the claim of the applicant for proper fixation of his pension has been rejected. The applicant has also filed a Misc. Application seeking condonation of delay in filing the application. It has been stated in the Misc. Application seeking condonation of delay that the applicant is a retired Government servant and is not aware of the technicalities of law. He has also claimed that reduction of pension furnishes a recurring cause of action.

3. We have carefully considered the question regarding limitation. While the plea that reduction in pension furnishes a recurring cause of action can be taken only with regard to the payment of pension in future, there is merit in the applicant's claim that limitation is also available with reference to the decision of the Post Master General in Dak Adalat. Considering all aspect of the matter and in the interest of justice and also having regard to the peculiar facts of this case, we condone the delay in filing this application and proceed to hear the application on merits.

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4. The pension provisionally fixed on retirement of the applicant was on the basis of pay last drawn by him. However, subsequently after his retirement there was revision of his pay on account of "Re-deployment" vide order dated 26.3.1980 (Annex.A-7). We have carefully perused the reply filed by the respondents contesting the application. During the arguments, the learned counsel for the respondents has shown to us a communication dated 19.6.1974 addressed by the Director General of Posts, New Delhi to all Heads of Circles on the subject of implementation of recommendations of the III Central Pay Commission relating to introduction of two grades above L.S.G. namely H.S.G.-I and H.S.G.-II. It was claimed that it was in pursuance of these instructions that the applicant's pay was revised down-wards, as a consequence of which his final pension was fixed at the lower amount of Rs. 340/- per month as against the provisional pension of Rs. 357/- per month.

5. It is however, seen that the order of re-deployment Annexure A-7, as a consequence of which the pay of the applicant was reduced was passed on 26.3.1980 in pursuance of the instructions dated 19.6.1974 received from the Director General of Posts, the applicant's pension was fixed at Rs. 340/- on the basis of the assumed re-fixation without passing any formal order of re-fixation of pay or re-deployment before the determination of the applicant's final pension as per Annexure A-5 i.e. PFO which was issued on 26.7.1978. Thus, on the date on which the PFO was issued, there was

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no order of re-fixation of the pay of the applicant downwards or re-deployment as in Annexure A-7 dated 26.3.1980. The respondents were also not justified in re-fixing the pay of the applicant after his retirement, without giving him any opportunity of being heard.

It is also seen that in the case of a similarly situated person Shri S.M.Joshi who was junior to the applicant, pension was not revised downwards.

6. Considering all the facts and circumstances of the case and for all the above reasons, we are of the view that fixation of the applicant's pension at Rs. 340/- per month by Annexure A-5 dated 26.7.1978 was not justified. The applicant shall be entitled to pension on the basis of the last pay drawn as on 31.8.1977 without taking into account any re-deployment or re-fixation done subsequent to his retirement. The applicant shall also be entitled to the consequential benefits as a result of his pension being determined at Rs. 357/- per month. The order Annexure A-1(a) is quashed. The respondents shall implement this order within a period of four months from the date of receipt of the order.

7. The O.A. is allowed accordingly. No order as to costs.


(RATNA PRAKASH)
MEMBER (J)


(O.P.SHARMA)
MEMBER (A)