

(B)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD.
O.A.NO. 861 of 1992.

Between
M. Venkata Reddy

Dated: 1.10.1992.
Applicant

...
And

1. Director, Defence Research and Development Laboratory, Kanchanbagh, Hyd.

... Respondent.

Counsel for the Applicant
Counsel for the Respondent

: Sri. S. Lakshma Reddy
: Sri. N.V. Ramana, Addl. CGSC.

CORAM:

Hon'ble Mr. R. Balasubramanian, Administrative Member
Hon'ble Mr. T. Chandrasekhar Reddy, Judicial Member

The Tribunal made the following order:-

O.A. 861/92 is filed by Sri. M. Venkata Reddy, the applicant against the Director, Defence Research & Development Laboratory. The prayer in this case is to direct the respondents to pay him subsistence allowance at the revised scales of pay effective from 1.1.86 and grant of consequential benefits. Heard the case today. Sri. S. Lakshma Reddy, learned counsel for the applicant and Sri. N.V. Ramana, learned Addl. Central Government Standing Counsel are present.

The brief facts of the case are that the applicant was placed under suspension on 24.9.1977. He is being paid subsistence allowance only on the basis of pre-revised scales. The applicant's representations not having met with any success, he has filed this OA with the above said prayer.

We have examined the case and heard the rival sides. The learned counsel for the applicant drew our attention to the two judgements of this Bench dated 17.9.1992 in O.A. 695/92 and another judgement dated 22.9.1992 in O.A. 372/92. In both the cases it had been held that subsistence allowance should be related to the scale of pay in force on that day at the relevant time. This is further fortified by the observations of the Supreme Court. The observation is that for an employee to subsist, the allowances for the purpose should have relationship with the scales which reflect the cost of living at particular time. The relationship between the suspended official and the Administration is also defined in the judgements of Jodhpur Bench of the Tribunal and J&K High Court referred to in the Bench judgement in O.A. 695/92.

In view of this case, we feel that the subsistence allowance given to the applicant should be related to the scale of pay at the relevant time. Sri. N.V. Ramana, however, opposed this referring to Rule 62 relating to Government orders on 4th Pay commission which states that where a Government servant is under suspension on the 1st day of January, 86 as in this case, the option may be exercised within 3 months of the date of his return to his duty if that day is later than the date prescribed in the sub-rule. (Extracts of para 6 Appendix to CPRO 3/87 of Ministry of Defence Notification SRO 12-E dated 23.9.1986)

- Rule 5
- (1) The option under the proviso to shall be exercised in writing in the form appended to the second schedule so as to reach the authority mentioned in sub-rule (2) within three months of the date of publication of these rules or where an existing scale has been revised by any order subsequent to that date within three months of the date of such order.

Contd: ...2/-

Provided that:-

(i) in the case of a Government servant who is, on the date of such publication or, as the case, may be, date of such order, out of India on leave or deputation or foreign service or active service, the said option shall be exercised in writing so as to reach the said authority within three months of the date of his taking charge of his post in India and.

(ii) Where a Government servant is under suspension, on the 1st day of January, 1986, the option may be exercised within three months of the date of his return to his duty if that date is later than the date prescribed in this sub-rule.

(2) The option shall be intimated by the Government servant to the Head of his office.

(3) If the intimation regarding option is not received within the time mentioned in sub-rule (1), the Government servant shall be deemed to have elected to be governed by the revised scale of pay with effect on and from the 1st day of January, 1986.

In this case, in view of the overwhelming legal position, ~~advised shall be final.~~ applicant's anxiety to link it with the current scales of pay we feel that the subsistence allowance payable to the applicant should be related to the scales of pay at the relevant time. We accordingly, allow the application directing the respondents to pay subsistence allowance on the revised pay scales with effect from 1.1.86. Since we hold that the action of the respondents in relating the subsistence allowance to the current scales (50% or 75%) however should remain the same. These orders shall be complied with by the respondents within a period of 4 months from the date of receipt of this order. The O.A. is allowed accordingly with no order as to costs.

Deputy Registrar (Judl.)

Copy to:-

1. Director, Defence Research and Development Laboratory, Kanchanbagh, Hyd.
2. One copy to Sri. S. Lakshma Reddy, advocate, 3-4-548/3, behind YMCA, Narayanaguda, Hyd.
3. One copy to Sri. N.V. Ramana, Addl. CGSC, CAT, Hyd.
4. One spare copy.

Rsm/-

O.A-261/92

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CHECKED BY RM APPROVED BY

11/10/92

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

THE HON'BLE MR.

AND

THE HON'BLE MR. R. BALASUBRAMANIAN : M(A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR : MEMBER (J)

AND

THE HON'BLE MR. C. J. ROY : MEMBER (J)

Dated: 1/10/ - 1992

ORDER / JUDGMENT

R.A./C.A./M.A.No.

in

O.A.No.

261/92

T.A.No.

(W.P.No.)

Admitted and interim directions
issued

Allowed.

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for default

M.A.Ordered / Rejected

No orders as to costs.

pvm.

