

68

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: :HYDERABAD BENCH: :

O.A.No.802/92.

Date: 28.7.93.

Between:

M.V.B.Rama Prasad ..

Applicant

And

1. Divisional Railway Manager,
S.E.Railway, Visakapatnam-530 004.

2. Additional Secretary, Govt. of
India, Ministry of Personnel,
Public Grievances & Pensions,
Department of Pensions &
Pensioners Welfare, Nirvachan
Sadan, New Delhi.

.. Respondents

APPEARANCE:

For the applicant : Party in Person

For the respondents : Sri N.R.Devaraj, Sr. CGSC

CORAM:

THE HON'BLE MR.JUSTICE V.NEELADRI RAO, VICE-CHAIRMAN

THE HON'BLE MR.P.T. THIRUVENGADAM, MEMBER (ADMN.)

]JUDGMENT OF THE BENCH AS PER HON'BLE SRI P.T.THIRUVENGADAM,
MEMBER (ADMN.)]

This O.A. was transferred from Principal Bench of
dt. 22.8.1992
this Tribunal in pursuance of the Orders/passed in M.P.

No.2215/92 in O.A.No.309 on the file of the Principal
Bench. The O.A. was coming up for orders but the [redacted]
applicant was not present at any time inspite of issuance
of notices to him several times to the address on record.
Therefore, we have decided to hear the respondents/to
dispose-of the matter based on the material on record.

2. The applicant was working as I.O.W. in the South Eastern Railway. He was spared on secondment to the Rail India Technical and Economic Services (RITES), a public sector undertaking with effect from 1.8.1982 and subsequently on his request, he was absorbed in the said public Sector Undertaking with effect from 1.5.1985 by orders dt. 18.11.1985 of the Chief Personnel Officer, South Eastern Railway, GRC, Calcutta. In pursuance of his application, he was sanctioned monthly pension with effect from 1.5.1985 as well as Death-cum-Retirement Gratuity vide orders dt. 25.8.1986. The applicant was also paid a sum of Rs.39,193-44 ps. towards 1/3rd commutation value as per his request by sanction letter dt. 26.9.1986. The applicant subsequently opted for commutation of 100% pension in terms of Railway Board's letter dt. 10.9.1971 and represented for the commutation of the remaining 2/3rd pension and the same was also sanctioned by letter dt. 28.1.1987 and payment was made to him.

3. While so, Ministry of Personnel, Public Grievances and Pensions issued O.M. dt. 16.4.1987 rationalising the pension structure for pre 1-1-1986 pensioners. Para-As per these instructions pre 1-1-1986 pensioners were granted enhanced pension as per the table attached to the said letter, effective from 1.1.1986. Para-3.1(a) and 10(a) of the letter read as under:-

"Para-3.1. In these orders:

(a) 'Existing Pensioner' or 'Existing family pensioner' means a pensioner who was drawing/entitled to pension/

68

family pension on 31.12.1985. For purposes of updating family pension it also covers members of family of employees retired prior to 1.1.86 and in whose case family pension has not commenced as the pensioner is/was alive on 31.12.85.

"Para-10. The cases of Central Government employees who have been permanently absorbed in public sector undertakings/autonomous bodies will be regulated as follows:

(a) PENSION:

Where the Government servant on permanent absorption in public sector undertakings/autonomous bodies continue to draw pension separately from the Government, their pension will be updated in terms of these orders. In cases where the Government servants have drawn one time lumpsum terminal benefits equal to 100% of their pension their cases will not be covered by these orders."

¶ The applicant by his letter dt. 7.8.1987 requested for arrears of pension from 1.1.1986 till the commutation of pension was allowed to him and also for the difference in commutation amount based on the revised pension subsequent to 1.1.1986. His representation was disposed-of by the administration stating that as per para-10(a) of the above referred instructions he is not eligible for the amounts claimed by him. The stand of the administration is that he was not a pensioner on 16.4.1987 i.e. the date of issue of O.M., since by that time the applicant already commuted 100% pension. Aggrieved by this stand of the administration this O.A. has been filed.

(69)

4. Having gone through the records including the O.A. and reply filed by the administration, we note that the definition of 'Existing Pensioners' given in Para-3.1(a) of O.M.No.2/1/87-PIC.I dt. 16.4.1987 of Ministry of Personnel, Public Grievances and Pensions, Department of Pension and Pensioners' Welfare fully covers the applicant, since it is not disputed that he was sanctioned pension with effect from 1.5.1985, ~~and continued to draw pension till~~ 100% commutation was sanctioned in January, 1987. Even the commutation of the first 1/3rd pension was sanctioned only in September, 1986. Hence, we have no doubt that the applicant is eligible to have his pension refixed from 1.1.1986 based on the said O.M. dated 16.4.1987.

5. The stand taken by the respondent that the claim of the applicant gets debarred in view of para-10(a) of the O.M. (reproduced earlier) is not convincing. This para has been read in isolation and has been involved in all cases where 100% commutation has been effected prior to 16.4.1987, the date of issue of O.M. What has been overlooked is the scope of the O.M. itself as brought out in the definition of 'Existing Pensioners' in para-3(a) as well as the contents of the first para of the O.M. which reads as under:-

✓

"The undersigned is directed to say that in pursuance of Government's decisions on the recommendations of the Fourth Central Pay Commission announced in this Department's Resolution No.2/13/87-P.I.C. dated the 18th March, 1987 sanction of the President is hereby accorded to the regulation, with effect from 1.1.1986, of pension/family pension of existing pensioners/family pensioners in the manner indicated in succeeding paragraphs."

Thus, the regulation issued under the O.M. is effective from 1.1.1986 and para-10(a) has to be read in this background. We hold that para-10(a) should apply only to those pensioners who had retired prior to 1.1.1986 and commuted their entire pension prior to this date. Ofcourse, for those who retired after 1.1.1986, para-10(a) is not relevant since updating their pension in terms of the O.M. does not arise.

6. Accordingly, this O.A. is allowed and the ~~respondents are~~ directed to refix the pension of the applicant on 1.1.1986 and pay him the arrears of pension till the commutation was allowed as well as the arrears in commutation based on the revised pension.

No Co^{rs}h.

R.J.Thiru
(P.T.Thiruvengadam)
Member(Admn.)

V.Neeladri Rao
(V.Neeladri Rao)
Vice-Chairman

Dated 28th July, 1993.

grh.

S 385/83
Deputy Registrar (Judl.)

Copy to:-

1. Divisional Railway Manager, S.E.Railway, Visakhapatnam
2. Additional Secretary, Govt. of India, Ministry of Persons & Public Grievances & Pensions, Department of Pensions & Pensioners Welfare, Nirvachan, Sandan, New Delhi.
3. One copy to Sri. M.V.B.Rama Prasad, (Party-in-person), Shed No.31, Prasanthi Nilayam(P.O), Anantapur Dist-515
4. One copy to Sri. M.V.B.Rama Prasad, (Party-in-person), Flat No.C/4B/139, Janakpuri, New Delhi-058.
5. One copy to Sri. N.R.Devaraj, Sr. CGSC, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One copy to Deputy Registrar(Judl.), CAT, Hyd.
8. Copy to Reporters as per standard list of CAT, Hyd.
9. One spare copy.

Rsm/-

PSB/ln
3-1103

Typing 200 copies
Rowes O.A. 802/92
TYPED BY 6/8/93 COMPARED BY
CHECKED BY 3 APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE CHAIRMAN

AND

THE HON'BLE MR. A. B. GORTHY : MEMBER (A)

AND

THE HON'BLE MR. T. CHANDrasekhar REDDY
MEMBER (JUDL)

AND

THE HON'BLE MR. P. T. RIRUVENGADAM : M (A)

Dated: 28/7/1993

ORDER/JUDGMENT:

M.A/R.A/C.A.N.

O.A. No.

802/92

T.A. No.

(W.R.)

Admitted and Interim directions
issued.

Allowed

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for default.

Rejected/Ordered

No order as to costs.

