

(21)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. 1115/94.

Dt. of Decision : 23-9-94.

V.C. Narasimhulu

.. Applicant.

Vs

1. The Union of India,
rep. by its Secretary to
Government of India,
Ministry of Defence,
New Delhi.
2. The Engineer-in-Chief,
Army Head Quarters,
Kashmir House,
DHQ P.O.,
New Delhi-110 011.
3. The Chief Engineer,
Southern Command,
PUNE - 411 001.
4. The Chief Engineer,
Hyderabad Zone,
Parade Grounds,
Sardar Patel Road,
Secunderabad-500 003.

.. Respondents.

Counsel for the Applicant : Mr. N.Rama Mohana Rao

Counsel for the Respondents : Mr. N.R. DEVARAJ, Sr.CGSC.

CORAM:

THE HON'BLE SHRI A.V. HARIDASAN : MEMBER (JUDL.)

THE HON'BLE SHRI A.B. GORTHI : MEMBER (ADMN.)

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OA 1115/94.

Dt. of Order: 23-9-94.

(Order passed by Hon'ble Shri A.B.Gorthi,
Member (A)).

* * *

The applicant who retired from service on Superannuation on 31-12-93 claims in this application for a direction to the Respondents to release all his pensionary benefits with interest.

2. Heard learned counsel for both the parties. The dispute in this case seems to arise from the fact that the basic pay of the applicant which was ^{at} Rs.2,600/- p.m. was reduced to Rs.2,300 p.m. prior to his retirement. His pensionary ~~entitlements~~ entitlements were calculated on the basis of his basic pay of Rs.2,600/- but because of the revision of his basic pay by the Respondents, they sought to recover the excess amount paid to the applicant towards his salary.

Aggrieved by the same, the applicant, we are informed, filed an O.A. before the Bombay Bench of the Tribunal (OA 386/92)

3. In view of the dispute in regard to the ~~his~~ basic pay of the applicant and also in view of the interim order of the Bombay Bench of the Tribunal staying recovery of the excess amount of salary paid to the applicant, the Respondents decided not to release the pensionary benefits of the applicant. On behalf of the Respondents, it has been

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brought to our notice that a sum of Rs.40,000/- (approximately) is liable to be recovered from the applicant. Learned counsel for the applicant however states that only a sum of Rs.18,862/- is sought to be recovered by the Respondents. The applicant, very fairly, concedes that his entire amount of DCRG may be provisionally withheld by the Respondents pending finalisation of his O.A. by the Bombay Bench of the Tribunal. He however claims immediate payment of the commuted value of the pension and the residual pension due to him.

4. Keeping in view the aforesaid facts and the rules governing the withholding of pensionary/gratuity benefits, learned counsel for the Respondents stated that this O.A. may be disposed of at the admission stage itself, protecting the interest of the Respondents so far as the proposed recovery of the excess salary if any, paid to the applicant. Accordingly this O.A. is disposed of at the admission stage itself with the following directions :-

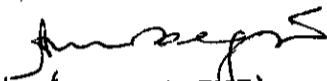
(a) the Respondents may withhold the amount of DCRG due to the applicant till the dispute pertaining to the fixation of basic pay of the applicant is decided by the Bombay Bench of the Tribunal;


(b) the Respondents shall calculate the pensionary entitlements of the applicant treating his basic pay as on 1-1-86 as Rs.2,300/- p.m. as claimed by the Respondents themselves. After calculating the pensionary entitlements, the same shall be paid to the applicant with 12% interest calculated from 1-4-94. This

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payment of pensionary benefits to the applicant shall be provisional in nature and is liable to be revised after the decision of the Bombay Bench of the Tribunal in OA 386/92 i.e. now pending before it.

5. Original Application is ordered accordingly. Respondents to make the payments as above within one month from the date of communication of this order. No order as to costs.


(A.B.GORTNI)
Member (A)


(A.V.HARIDASAN)
Member (J)

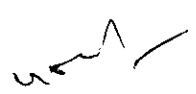
Dt. 23rd September, 1994.
Dictated in Open Court.

avl/


DEPUTY REGISTRAR (JUDL.)

Copy to:

1. The Secretary to Government of India, Ministry of Defence, Union of India, New Delhi.
2. The Engineer-in-Chief, Army Head Quarters, Kashmir House, DHQ P.O., New Delhi - 110 001.
3. The Chief Engineer, Southern Command, Pune - 411 001.
4. The Chief Engineer, Hyderabad Zone, Parade Grounds, Sardar Patel Road, Secunderabad - 500 003.
5. One copy to Mr.N.Rama Mohan Rao, Advocate, CAT, Hyd.
6. One copy to Mr.N.R.Devraj, Sr. CGSC, CAT, Hyd.
7. One copy to Library, CAT, Hyd.
8. One spare copy.



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Approved by

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR.A.V.HARIDASAN : MEMBER(J)

AND

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

Dated: 23.9.94

ORDER/JUDGMENT.

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

in

O.A.NO. 1115/94

T.A.NO.

(W.P.NO.)

Admitted and Interim Directions
Issued.

Allowed.

Disposed of with Directions. *at admission*

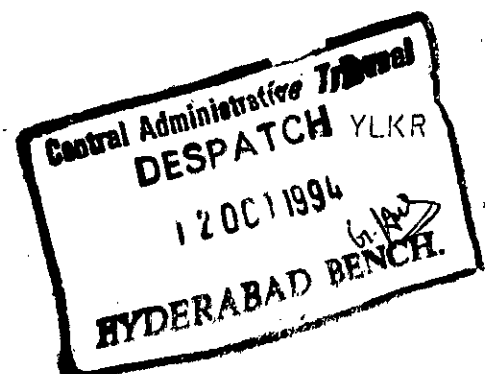
Dismissed.

Dismissed as withdrawn.

Dismissed for Default.

Rejected/Ordered.

No order as to costs.



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