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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

OA.280/99

dt. 15.10.99

Between

D. Satyanarayana

: Applicant

and

1. Union of India, rep. by
its General Manager
SC Rly., Secunderabad

2. Divnl. Rly. Manager
SC Rly., Vijayawada

3. Sr. Divnl. Personnel Officer
SC Rly., Vijayawada

4. Sr. Divnl. Accounts Officer
SC Rly., Vijayawada

: Respondents

Counsel for the applicant

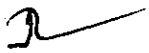
: N. Raman
Advocate

Counsel for the respondents

: K. Siva Reddy
SC for Rlys.

Coram

Hon. Mr. B.S. Jai Parameshwar, Member (Judl.)



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dt.

Order

Order (per Hon. Mr. B.S. Jai Parameshwar, Member(Judl))

Heard Sri N. Raman, learned counsel for the applicant and Sri K. Siva Reddy, learned counsel for the respondents.

1. The applicant herein while working as Guard(Spl.A) under the Respondent No.3 and 4, retired from service with effect from 31-1-1981 on attaining the age of 58 years. He had put in 36 years and odd of service.
2. He submits that the post of Guard (Spl.A) falls under the category of running staff and that his pension and pensionary benefits should have been worked out taking into account 75% of the running allowance. It is his grievance that the respondents have calculated the pension taking into account only 55% of the running allowance. He relies on Rule 2544 of IREM to contend that 75% of the running allowance has to be taken into account to determine pension and pensionary benefits.
3. He had earlier approached this Tribunal in OA.744/89 seeking direction to the respondents to determine his pension and other benefits by taking into account 75% of the running allowances as "Pay". On 14-2-1994 the said OA was allowed relying upon the Full Bench decision of this Tribunal in OA.355/90 and given the following directions:

The following directions are given by the Full Bench as per their judgement dated 16-12-1993:

 - (1) The respondents shall recompute the pension and other retiral benefits of the applicants or their LRs in accordance with Rule 2544 as was in force before it was amended by notification dated 5-12-1988.



...2.

(2) The arrears due to the applicants/LRs on the basis of the recomputation as aforesaid shall be calculated and paid.

(3) These directions shall be carried out within a period of three months from the date of receipt of the copy of this order.

(4) If the amounts due to the applicants/LRs are not paid within the prescribed time, the amounts due shall be paid with interest at 12% p.a. from the date of this order till the date of payment.

(5) The applicants shall be entitled to costs at the rate of Rs.500/- in respect of each application."

4. On 15-5-1998 (15-9-90?) the applicant enclosed his calculation of pension and other emoluments taking into consideration 75% of his running allowance. His calculations are at enclosure A-3 (Page 11 of the OA). He has submitted his calculations to the Respondent No.3 (by letter dated 15-9-98 (Annex.A-II page 10&11)).

5. Thereafter Respondent No.3 sent working sheet of the pension and pensionary benefits revised in accordance with the decision of the Hon. Supreme Court in Civil Appeal No. 4174-82/95 and on the basis of Railway Board's letter No.PC-III/92/CTC-I/2 dated 14-10-97. The calculations and revision of pension by Respondent No.3 is at Annexure A-5 page 13 to the OA.

6. The applicant is not satisfied with the revision of pension order by the Respondent No.3 as per Annexure A-5. The applicant in para 6(d) i) ii) iii) in the OA has indicated the mistakes or irregularities committed by the Respondent No.3 in revision^{ing} the pension^{as} at Annexure A-5.

7. Hence the applicant has filed this OA for a direction to the Respondent No.2 to recalculate the pensionary benefits



correctly reckoning 75% of the running allowance as "Pay" based on the judgement of this Tribunal in OA.744/89 dated 14-2-1994 Annexure A-1 and the judgement of the Supreme Court dated 1-8-1997 in CA.4174-82/95 by adopting 42% of DP entitled for and also to pay interest at the rate of 12% and costs of Rs.500/- as ordered by this Tribunal and to set aside the impugned order dated 20-12-1998 (Annexure 4).

8. The respondents have filed a reply stating that the pension and pensionary benefits of the applicant were calculated as per the rules then existing at the time of the retirement of the applicant as on 31-1-1981 that the Railway Board issued instructions to compute the pension and other benefits in accordance with Rule 2544 for all those who retired from service between 1-1-1973 and 4-12-1988 and those who approached the various courts etc. That the said rule of the IREM provides pay and actual allowance drawn by Railway servant during the period limited to maximum 75% of pay to reckoned for the purpose of calculation of average emoluments for the purpose of gratuity/DCRG the monthly average of Running allowance drawn during the 365 days of Running duty immediately preceding the date of retirement limited to 75% of the monthly average pay to be reckoned. They submit that revision of pension of the applicant as per Annexure A-5 is in accordance with rules. They have also disputed the correctness of otherwise of the grounds raised by the applicant in the OA with regard to the manner of revision of pension as per Annexure A-5. Further they submit that the interest on delayed payment of DCRG and costs of Rs.500/- totalling Rs.1412/- has already been arranged to the Account of the applicant vide cheque No.823949 dated 28-5-1999. Thus they pray for dismissal of the OA.



9. The applicant has filed a rejoinder disputing the various averments made by the respondents in reply and also produced a copy of Railway Board's letter No.PC.III/ /CTC-1/2 dated 8-7-1999 (Annex.I to the Rejoinder).

10. The applicant is aggrieved in revising the pension on his retirement. The applicant retired from service on 31-1-81. The respondents submitted that revision of pension has been carried out in accordance with the directions of this Tribunal in OA.744/89 which ^{is} decided on 14-2-94. They have given thier own interpretation with regard to the manner of reckoning ^{the} Running allowance.

11. The Railway Board by its letter dated 8-7-89 has given further instructions in the matter of calculation of pension taking into consideration the Running allowance. Para-4 of the said letter is relevant. Hence ~~I feel it~~ proper to reproduce herein para-4 :

"Taking all aspects of the matter into account, the matter has been considered carefully by the Board in consultation with the Legal Advisor. In partial modification of the instructions contained in Para 2(i) of the above letter dated 14-10-1997, it has been decided that for the purpose of recomputation of pension and other retiral benefits of the Running staff who retired during the period from 1-1-1973 to 4-12-1988 and were involved in the above Civil Appeals/SLPs as well as other similarly placed employees, 75% of other emoluments, as prescribed in Rule 2544 R.II as was in force before it was amended by the notification dated 5-12-1988, may be reckoned without reference to the actual amount of running allowance drawn by them."

12. The respondents submit that the revision of pension of the applicant as per Annexure A-5 has been done as per the

rules. The applicant appears to have been not satisfied with the revision of his pension. The question is only a matter of verification of the records and rule position and satisfaction of the applicant. Hence, I feel it proper to direct Respondent No.4 to fix a meeting with the applicant. Respondent No.4 in the said meeting may explain to the applicant the rule position and the instructions and the manner by which he has determined revision of pension as per A-5 to the OA. The relevant records in that behalf enclosed to the reply may also be shown to the applicant. Further, ~~the~~ Respondent No.4 ^{shall} explained in what manner he has taken into consideration the running allowance drawn by the applicant while in service. Respondent No.4 may also take into consideration the Railway Board's instructions contained in the letter dated 8-7-1999 and decide whether those instructions are applicable to the facts and circumstances of the case of the applicant.

13. In case the applicant is still not satisfied with the revision of his pension, he may indicate his views in writing and submit the same to Respondent No.4.

14. If the Respondent No.4 is still of the view that the revision of pension as carried out in Annex.A-5 is correct then he may place the papers before Respondent No.3 to take a final decision in the matter.

15. Hence the following directions ^{are} ~~is~~ given:

a. ~~The~~ Respondent No.4 shall fix a meeting with the applicant.

In the said meeting Respondent No.4 shall explain to the applicant the rule position and the manner by which his pension and pensionary benefits were revised as per Annexure A-5.

b. The applicant may in the said meeting point out any mistake or irregularity committed by Respondent No.4 in revising his pension as per A-5 and also submit how his calculations as per Annex.3 ^{shall} ~~is~~ to be accepted.

c. In case ^{the} Respondent No.4 is satisfied with the submissions of the applicant then if necessary shall revise and redetermine ^{the} pension and pensionary benefits taking note of the Railway Board's letter dated 8-7-1999. Otherwise, ^{the} Respondent No.4 shall send a suitable reply.

d.) In case of differences of opinion the matter shall be decided by ^{the} Respondent No.3.

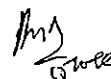
e. Time for compliance is four months from the date of receipt of ^{or} copy of this order.

f. The applicant may verify whether he has received cheque for Rs.1412/- as indicated in the reply.

16. With the above directions the OA is disposed of leaving the parties to bear their own costs.


(B.S. Jai Parameshwar)
Member(Judl)

Dated : 15.10.99



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