

CENTRAL ADMINISTRATIVE TRIBUNAL

JAIPUR BENCH, JAIPUR.

R.A.NO.6/2005 in O.A.No.357/2004

May 16, 2005

Union of India & Others

....

Applicants

Versus

Lal Singh & Others

....

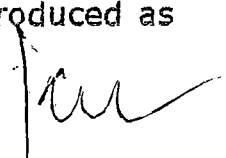
Respondents

ORDER (BY CIRCULATION)

The respondent Railways had passed an order dated 8.8.1995 (Annexure A-6) to the effect that the dearness allowance as linked to the average All India Consumer Price Index (AICPI) 1201.66 may be treated as pay for reckoning emoluments for the purpose of retirement gratuity and death gratuity under the Railway Services (Pension) Rules, 1993 w.e.f. 1.4.1995. Subsequently, various Benches of the Tribunal held that cut off date of 1.4.1995 is illegal and persons who had retired between July, 1993 to March, 1995 are entitled to the benefit of 97% merger formula.

This O.A. Was filed by the applicants claiming a relief that they may also be extended the benefits of the judgments rendered on the issue. However, the respondents took a specific objection in their written statement that applicants No.1,2,5,6, 7,8, 9 and 10 having retired prior to 16.9.1993, they cannot have any grievance with the order dated 8.8.1995.

The O.A. was taken up by the Bench for final hearing on 5.4.2005. During the course of arguments, on the specific objection taken by the respondents that some of the applicants named above cannot have any grievance against the order dated 8.8.1995, the learned counsel for the applicant prayed for withdrawal of the O.A. qua those applicants which was allowed as recorded in order sheet as well as in 1st para of the judgment. The relevant portion is reproduced as



- 2 -

under :

“..Thus, the O.A. Qua the applicants No.1,2,5,6,7, 8, 9 and 10 is dismissed as withdrawn with liberty being granted to them to file fresh O.A. for redressal of their grievance, if any, if so advised, as per law”.

It is this part of the order which has given some apprehension in the mind of the respondents to file the instant Review Application. Their stand is that no request was made by learned counsel for applicant for withdrawal of the case qua the applicants no. mentioned therein and had such request been made, the respondents would have objected to the same as the liberty given to them to file a fresh O.A has robbed the respondents chance of opposing their claim in future litigation.

It appears that the present R.A has been filed by the respondents in the O.A due to misconception about the factual position as well as law. A bare perusal of the order dated 5.4.2005 by which the O.A. of the applicants was disposed of, discloses that the Bench had dismissed the O.A as withdrawn with liberty to the concerned applicants to file fresh O.A. for addressable of their grievance, if any, if so advised, as per law. The use of words that applicants can file fresh O.A. For redressal of their grievance, if any, if so advised, as per law make it very clear that the Court was conscious about the factual as well as legal position. A court of law is concerned with delivery of justice to the concerned parties based on relevant facts and law. It is a fact that the concerned applicants were given a liberty to file fresh O.A but subject to the rider that, if so advised and as per law. In other words, the liberty granted to those applicants cannot be taken to mean that some absolute favourable orders were passed in their favour. They have to first file an O.A. That too if so advised and as per law. In such a situation even if those applicants file an O.A. That will be as per law and obviously the respondents will be also within their right to


for

3

defend the case of the applicants. So, the apprehension entertained by the official respondents in their mind is without any basis and a misconception about the proposition of law.

It is the case of review applicants that the court should have returned a finding on maintainability of the O.A qua the applicants who withdrew the O.A and that a joint O.A was not maintainable. Once at the very beginning the learned counsel for the concerned applicants had made a prayer to withdraw the O.A, where was need to record a finding whether a Joint O.A is maintainable or not.

In any case it is more than clear that the concerned applicants were not given any unconditional liberty of filing a fresh O.A as sought to be projected by the respondents under a mis-conception. In view of these facts, the very basis of filing the R.A falls to the ground and resultantly the R.A.is dismissed under rule 17(3) of the Administrative Tribunals Act, 1985, by procedure of circulation.


(KULDIP SINGH)
Vice Chairman

May 18, 2005.

HC*