

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.577/96

Date of order: 13/3/2000

M.L.Mittal, S/o Shri J.P.Mittal, R/o 363, Mahaveer Nagar,
Tonk Road, Jaipur.

...Applicant.

Vs.

1. Union of India through the Secretary to the Govt. Mini. of Mines, Shastri Bhawan, New Delhi.
2. The Director General, Geological Survey of India, 27, Jawahar Lal Nehru Road, Calcutta.
3. The Dy. Director General, Airborne Mineral Surveys & Exploration Wing, GSI, Prestige Complex, 2-Church Street, Bangalore.

...Respondents.

Mr.V.K.Jain - Counsel for the applicant

Mr.V.S.Gurjar - Counsel for respondents.

CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member

Hon'ble Mr.N.P.Nawani, Administrative Member.

PER HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER.

In this Original Application under Sec.19 of the Administrative Tribunals Act, 1985, the applicant makes a prayer to direct the respondents to make the payment of commutation and one time lumpsum terminal benefits at the revised rate of pension and to make the payment of interest @ 18% per annum.

2. Mainly the case of the applicant is that he was not granted the benefit of pension and pensionary benefits as per his revised pension w.e.f 1.1.86. The applicant filed O.A No.23/92 before the Tribunal which was disposed of by order dated 18.1.94 with the direction that the applicant is entitled to revised pension and pensionary benefits w.e.f. 1.1.86 to 20.8.90 i.e. on the date on which the applicant received the commuted value of his entire pension. It is stated that in pursuance of the order dated 18.1.94 passed in O.A No.23/92, the applicant was paid arrears of pension for the period from 1.1.86 to 20.8.90 but the respondents did not grant one time lumpsum terminal benefits at the revised rate of pension. Therefore, the applicant filed representation on 28.5.94 but the respondents vide letter dated 16.1.96 denied to grant the revised commuted pension to the applicant. It is stated that in spite of the Tribunal's direction in O.A No.23/92 dated 18.1.94, the respondents did not grant commutation at the revised rate of pension which was against the provisions of Pension Rules. It is stated that O.M No.2/1-87/PIC-1 dated 16.4.87 is not applicable to the applicant hence the denial of the claim of the

applicant was not proper on the basis of the aforesaid O.M. dated 16.4.87, therefore, the applicant filed this O.A for the relief as mentioned above.

3. Reply was filed. It is stated in the reply that as per OM dated 16.4.87, the applicant is not entitled to commutation at the revised rate of pension and the applicant is not entitled to any relief sought for.

4. Heard the learned counsel for the parties and also perused the whole record.

5. In O.A No.23/92, the applicant made a prayer to direct the respondents to make the payment of pension and other pensionary benefits w.e.f. 1.1.86 to 20.8.90 and this Tribunal disposed of the O.A with the following directions:

"the applicant is entitled to revised pension and pensionary benefits w.e.f. 1.1.86 to 20.8.90, i.e. the date on which he had received the commuted value of his entire pension. The respondents shall calculate the arrears payable to the applicant and pay the same to him within a period of 4 months from the date of receipt of a copy of this order. No interest is allowed on these arrears. In the circumstances, we do not consider it necessary to grant the other relief claimed by the applicant."

6. It is an admitted fact that the applicant was paid arrears of pension from 1.1.86 to 20.8.90 in compliance with the directions given in O.A No.23/92 dated 18.1.94 but the applicant did not like to file any contempt petition, if any, for compliance of the Tribunal's order dated 18.1.94 whereas he filed this O.A on 6.8.96 for seeking the relief as mentioned above.

7. In Capt.S.C.Gulhati Vs. UOI 1998(1) ATJ 242 (CAT Allahabad) it was held that if the applicant has repeated the same plea which has been raised in an earlier O.A, the pleas have already been adjudicated in the earlier O.A cannot be permitted to be raised on the principles of res judicata.

8. In the instant case, the applicant earlier filed O.A No.23/92 which was disposed vide order dated 18.1.94. In the earlier O.A, he prayed for payment of pension and other pensionary benefits w.e.f. 1.1.86 to 20.8.90 and this Tribunal gave directions to the respondents accordingly while disposing of the O.A. Now by filing another O.A the applicant has come forward for a relief against noncompliance of the order dated 18.1.94 passed by this Tribunal in O.A No.23/92. Therefore, we are of the considered opinion that this O.A is not maintainable on the principle of

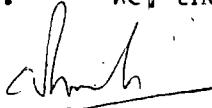
resjudicate.

9. The respondents have categorically denied the claim of the applicant on the basis of O.M dated 16.4.87. The relevant portion of the O.M dated 16.4.87 is reproduced below:

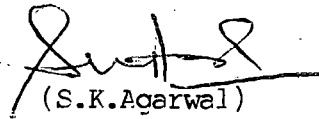
In the case of existing pensioners, whose pension was calculated under the slab formula, the pension will be recalculated at 50% of average emoluments. There will be no upper ceiling on the amount of pension so worked out. The reckonable emoluments and the reckonable qualifying service in their case will however remain unchanged. The additional pension becoming due under these provision will not however be taken into account for computation of additional relief sanctioned in the preceding paragraph nor will it qualify for additional commutation."

10. The applicant has not challenged the aforementioned O.M dated 16.4.87 in this O.A. He merely submits that this O.M is not applicable in the present case. Admittedly, pension of the applicant was revised by the orders of this Tribunal dated 18.1.96 and by the orders of the Tribunal, the applicant was entitled to additional pension. Therefore, we are not inclined to accept the contention of the applicant that the O.M dated 16.4.87 is not applicable in the present case. Even on merits also, the applicant has no case and this O.A is liable to be dismissed as having no merits.

11. We, therefore, dismiss this O.A with no order as to costs.


(N.P. Newani)

Member (A).


(S.K. Agarwal)

Member (J).