

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JAIPUR BENCH JAIPUR.

OA No. 232/98

Date of order: 23/4/2001

K.J. Nangrani, aged 58 years son of Late Shri Jagatrai Resident of 21/11, Sector 2, Vaishali Nagar, AJMER.

Official address:

Retired Sr. Audit Officer,
O/O the Pr. Director of Audit,
Western Railway, GLD Building,
AJMER.

...APPLICANT

V E R S U S

1. Union of India through
The Comptroller & Auditor General of India,
10, Bahadurshah Zafar Marg, NEW DELHI.
2. The Principal Director of Audit,
Western Railway, 5th Floor,
New Station Building, Churchgate,
MUMBAI - 400020
3. The Financial Advisor & Chief Accounts Officer,
Western Railway, New Station Building,
Churchgate, MUMBAI - 400020

...RESPONDENTS

Mr. W. Wales, counsel for the applicant.

Mr. Manu Bhargava, counsel for the respondents.

ORDER

(As per Hon'ble Mr. A.P. Nagrath)

The applicant retired on superannuation as Sr. Audit Officer from Western Railway, Ajmer on

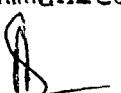


...2

30.9.1997. He has filed this application to claim interest from respondents on various items of settlement dues, details of which have been given at Annex. A/8 of the application. When the matter was taken up for hearing, the learned counsel for the applicant submitted that applicant wishes to drop all the claims except his claim of reduction in the amount of pension on account of commutation. In view of this submission, I am not going into claims on various other items and this order is confined to the issue pressed before me.

2. The case of the applicant is that after his retirement, the first commutation value of pension (Commutation Rs.64500) was credited in his Bank account on 7.10.97 and revised commutation of pension on 10.2.98. This action of the respondents is stated to have resulted in short payment of pension by the Bank to the applicant for the period from 1.10.97 to 1.2.98 amounting to Rs.7269.

3. The learned counsel on the either side, at the stage of oral arguments, submitted that they would like to file written submissions to support their respective contentions. The learned counsel for the respondents was also directed to file alongwith written statements, relevant Government orders pertaining to revision of pension and revised commutation of pension consequent to 5th pay commission pay scales. Written submissions have been filed by the learned counsel for the applicant. Learned counsel for the respondents has submitted an extract of appendix 1 CCS (Commutation of Pension) Rules, 1981 wherein the decision/ clarifications regarding commutation of pension upto 40 per cent and, reduction in pension and its restoration have been communicated by Government of India.



Department of Pension & PW, O.M. No.45/86-P & PW

dated 4.9.98

4. I have carefully perused the written submissions of learned counsel for the applicant wherein he stated that revised pay scales were circulated by the Government of India during October, 1997 and further clarifications thereon issued on 4.9.98 and 8.10.98. On the pre-revised scales of pay commutation value was worked out as Rs.645/- and the reduced monthly pension has been made effective from 1.10.1997. The revised commuted value worked out to Rs.2298/- being 40 per cent of the pension in the revised scale. It has been stated that the amount of additional commuted pension was deposited in the Bank on 10.1.98. Full pension on revised pay scales worked out Rs.5747/- and residuary pension after reducing the amount of commuted value came to Rs.3449/-. Contention of the learned counsel is that this reduced pension has been credited to the Bank account of the applicant only on 9.1.98, ^{but} has been made effective from 1.10.97, though rightly it should have been from 1.2.98. In other words, the applicant should have been paid full pension of Rs.5747/- for a period of 4 months i.e. from 1.10.97 to 31.1.98 and reduced pension of Rs.3449/- thereafter. He has claimed payment of this difference for 4 months @ Rs.2248/- per month which works out to Rs.9192/- alongwith interest @ 12 per cent. His argument is that under the CCS (Commutation of Pension) Rules as amended consequent to revision in the scales of pay, the reduced pension will take effect from the date differential of commuted value is actually credited into the pensioner's bank account; which in the case of the applicant should be w.e.f. 1.2.98 and not from 1.10.97



...4

5. I have gone through the circular issued by the department of pension dated 4.9.88 by which clarifications regarding commutation of pension upto 40 per cent consequent to introduction of 5th pay commission pay scales has been issued. A reading of this brings out clearly that on this matter a number of clarifications were sought by various departments of the Government as to the manner in which the revised commutation was to be worked out and the date from which it had to be made effective. Point No.3 and Point No.4 and the clarifications given are reproduced as under:-

"3. Date from which reduction in pension will take effect?	Reduction in pension on account of additional commutation of pension will be in two stages as per the provisions contained in Rule 6 of CCS (Commutation of Pension) Rules, 1981.
4. What will be the date of restoration of additional commutation of pension?	The commuted portion of pension shall be restored after 15 years from the respective dates of commutation as provided in Government of India Decision No.1 under Rule 10 of CCS (Commutation of Pension) Rules, 1981. Necessary endorsement should be made in the PRO."

Obviously, in case of the applicant, the reduction should have been in two stages i.e. reduction of Rs.645 was to be effective from 1.10.97 and



...5

the reduction of Rs. 2298 was to be effective from 1.2.98, while department has made the revised reduction also effective from 1.10.97. It is this refund which the applicant has sought to be paid alongwith interest. With the reduction in the pension in two stages, the restoration of additional commutation of pension will also be from the date reckoned 15 years after the date the revised reduced pension has been made effective. The benefit of commutation of pension upto 40% has to be worked out with reference to age next birthday as on date, which in the applicant's case would be on 1.2.98. The respondents were required to work out the revised commutation w.e.f. 1.2.98 as per the commutation factor applicable as on that date. The reduced pension is also payable from 1.2.98. In view of this clarification the prayer of the applicant in so far as it relates to payment of revised commutation of pension and reduction of pension is liable to be accepted. Since, there was a doubt in the mind of the departmental officers on this point and the clarifications were issued on 4.9.98 and 8.10.98. It is only reasonable that the interest should reckon only from 1.11.98 on the amount which is required to be refunded to the applicant.

6. Consequently, the matter is decided as under-

"The respondents are directed to pay an amount or Rs. 9193/- (worked out at the rate of Rs. 2298/- per month) to the applicant alongwith interest w.e.f. 1.11.1998, as applicable on G.P.F. accumulations at the relevant point of time up to the date, the payment is actually made. It is made clear that the additional commuted portion of pension shall be restored after 15 years, as reckoned from 1.2.98.

[Signature]

while the commuted value of Rs. 645/- shall be restored after 15 years reckoned from 1.10.97."

7. No order as to costs.

Copy 5
(A.P. Nagrath)
Member (A)