

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

O.A.No.297/2001

Date of order: 26/3/2002

Johari Lal, S/o Sh.Bala Sahai, R/o Vill.& Post
Panditpura, Teh.Baswa, Bandi kui, Distt.Dausa.

...Applicant.

Vs.

1. Union of India through General Manager, W.Rly,
Church Gate, Mumbai.
2. Financial Adviser & Chief Account Officer (Pension)
W.Rly, Churchgate, Mumbai.
3. Divisional Accounts Officer, W.Rly, Jaipur Division,
Jaipur.
4. Manager, United Commercial Bank, Station Road, Bandi
kui, (Dausa).

...Respondents.

Mr.C.B.Sharma : Counsel for applicant

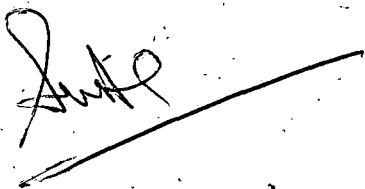
Mr.B.K.Sharma : Counsel for respondents.

CORAM:

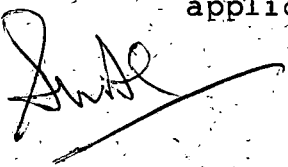
Hon'ble Mr.S.K.Agarwal, Judicial Member.

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

In this O.A filed under Sec.19 of the ATs Act, 1985,
the applicant makes a prayer, (i) to quash and set aside the
letter dated 5.1.2001, (ii) to direct the respondents not to
reduce the pension of the applicant and to revise the
pension w.e.f. 1.2.86 at Rs.1050/- per month instead of
Rs.893/- per month, w.e.f. 1.1.96 Rs.3179/- instead of
Rs.1913/- per month after taking into consideration the pay
and allowances and mileage allowance @ 75% instead of 55%,
(iii) to pay difference of pensionary benefits with arrears
and interest @ 18% p.a and to direct the respondents not to
make any recovery as excess payment.



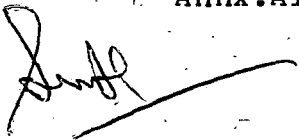
2. In brief facts of the case as stated by the applicant are that the applicant superannuated on 31.1.86 and his basic pay was Rs.290/- It is stated that the applicant was allowed pension @ Rs.893/- per month vide order dated 24.11.87 (Annx.A2) and he drew pension till 1992. But suddenly, vide letter dated 7.12.92, respondent No.3 directed the banker to pay the applicant pension @ Rs.587/- per month instead of Rs.893/- pm. and make recovery of excess payment of Rs.48093/- in instalments, vide order dated 19.3.93. The applicant preferred O.A No.349/93 and after considering the facts and circumstances of the case, the Tribunal quashed the order dated 7.12.92 and 19.3.93 vide its order dated 6.9.94. Thereafter, the applicant filed Contempt Petition against the attempt of the respondents to recover the so called excess payment which was decided vide order dated 9.8.96 as the respondents came with the reply that the Bank had reduced the pension under some bonafide mistake and the same has been rectified. It is stated that the applicant is entitled to pension w.e.f. 1.1.96 at Rs.2416/- plus Dearness Relief excluding commutation but the respondents allowed him the pension of Rs.1616/- pm excluding Rs.297/- as commutation w.e.f. 1.1.96. Thus, the pension of the applicant has been reduced without any reason and against the rules. It is stated that while calculating the pension of the applicant the weightage of 55% mileage allowance was given instead of 75% and thus the applicant is entitled to pension w.e.f. 1.1.2001 @ Rs.3179/- plus Dearness Relief Rs.1367/- plus Medical Allowance Rs.100/- and total Rs.4646/- pm. But the respondents without any reason and against the rules, reduced the pension of the applicant vide Annx.A1 putting a loss of Rs.1600/- per month



to the applicant. Thus, the applicant filed this O.A for the relief as above.

3. Reply was filed. In the reply it is stated that the calculation of pension as per order dated 24.11.87 was erroneous which was subsequently revised. It is stated that vide order dated 6.9.94 in O.A No.349/93, a liberty was given to the respondents to pass a fresh order in regard to the pension and pensionary benefits payable to the applicant under the rules after affording an opportunity of hearing to the applicant. In view of this, a show cause notice was given to the applicant and thereafter, the mistake was rectified. It is stated that revision of pension of the applicant was done as per his application dated 16.6.98 submitted to the DRM, W.Rly, Jaipur and also in consonance with the order of this Tribunal in O.A No.349/93. The calculation suggested by the applicant is not correct, therefore, the applicant has no case. In support of the reply, Annx.R1 to Annx.R3 have been filed.

4. Rejoinder to the reply has also been filed reiterating the facts as stated in the O.A. In the rejoinder it is stated that respondents never passed any order in pursuance of notice issued in '96 but the impugned order reducing pension was passed on the recommendations of Vth Pay Commission in the year 2001. It is stated that vide Annx.A12, the applicant filed the correct calculation of his pension on the basis of which he is entitled to revision of pension after taking in consideration 75% of Mileage Allowance instead of 55%, after the decision of the Apex Court but respondents instead of increasing his pension had reduced the same vide Annx.A1, therefore, the impugned order Annx.A1 is not sustainable in law.



5. Heard the learned counsel for the parties and also perused the whole record including the calculation sheets.

6. The calculation sheet filed by the respondents after taking into consideration 75% Mileage Allowance, reads as follows:

<u>Period</u>	<u>Days/Mths</u>	<u>Total Pay</u>	<u>TotalDA</u>	<u>Total IR</u>
1.4.85 to 3.4.85	3 days	27.00	50.09	110
4.4.85 to 30.4.85	27 days	255.60	474.21	90
1.5.85 to 31.7.85	3 mth	852.00	1614.00	300
1.8.85 to 31.10.85	3 Mth	870.00	1683.60	300
1.11.85 to 31.12.85	2 Mth	580.00	1145.60	200
1.1.86 to 31.1.86	1 Mth	1200.00	-	-
Total		3784.60	4967.50	900

Pension Average + 75% MA + DA + IR

$$378.46+283.84+496.75+90 = \underline{1249.0}$$

2

Pension Rs.625.20 from 1.2.86 & onwards

As per Vth PC Pension Chart-Pension fixed

on 1.1.96 & onwards

Rs.1913

7. On a perusal of the calculation sheet and after thorough examination of calculation sheet filed by the applicant (Annx.A12), I reach to the conclusion that there is no infirmity, illegality or irregularity in the calculation of pension so done by the respondents' department. Therefore, the applicant has no case to interfere by this Tribunal and this O.A devoid of any merit is liable to be dismissed.

8. I, therefore, dismiss this O.A having no merits with no order as to costs.


(S.K.Agarwal)

Member (J).