

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 316 of 2005

Gwalior, this the 22 day of November, 2005

Hon'ble Shri Madan Mohan, Judicial Member

1. Shri P.N. Tiwari, S/o. K.P. Tiwari, aged about 71 years, Resident of Paras Colony, Chherital, Jabalpur.
2. N.P. Shukla, S/o. B.L. Shukla, aged about 74 years, Resident of 1658, Saraswati Colony, Chherital, Jabalpur.
3. R.B. Shrivastava, S/o. R.S. Shrivastava, aged about 74 years, Resident of 1564, Saraswati Colony, Chherital, Jabalpur. ... Applicants

(By Advocate - Shri Komal Patel on behalf of Shri B.K. Rawat)■

V e r s u s

1. Union of India, through Secretary, Ministry of Personnel Public, Grievances & Pension, New Delhi.
2. Union of India, through Secretary, Railway Board, New Delhi.
3. Divisional Railway Manager (West), Central Railway, Jabalpur, MP. ... Respondents

(By Advocate - Shri S.P. Sinha)

O R D E R

By filing this Original Application the applicants have claimed the following main reliefs :

"i. for issuance of direction/order for re-fixation the gratuity amount payable to the applicants on attaining the age of superannuation on retirement prior to 1.1.1996,

ii. further to direct the respondents to pay the arrears with retrospective effect alongwith the interest @ 12% per annum on the due arrears of the gratuity amount."

2. The brief facts of the case are that the applicants are retired employees of the respondent's Department. The applicants submitted that at the time of their retirement the DA was not included in DCRG. The rate of DA was 97%. Hence, the applicants are entitled to 97% of basic pay as DA. Similar question arose before the Division Bench of the Tribunal which referred to Full Bench and the Mumbai Bench

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decided the said matter on 21.9.2001. The said judgment of the Mumbai Bench is a judgment in rem and not a judgment in personam. In this judgment the Full Bench has considered the circular of DOPT and set aside the cut-off date of 1st April, 1995. The applicants preferred representations regarding their claim but when the respondents have not decided the same the applicants have filed OA No. 111/2005 and the Tribunal vide its order dated 8th February, 2005 directed the respondents to consider and decide the fresh representation of the applicants within a period of two months. In compliance of the order of the Tribunal the respondents have passed the impugned order dated 17.3.2005 (Annexure A-3) rejecting the claim of the applicants. Hence, this Original Application is filed.

3. Heard the learned counsel for the parties and carefully perused the pleadings and records.

4. The learned counsel for the respondents stated that the Hon'ble Supreme Court in the case of State of Punjab & Ors. Vs. Amar Nath Goyal & Ors., in Civil Appeal No. 129 of 2003, vide order dated 27.7.2004 has ordered that the Writ Petitions pending before the Bombay High Court shall stand transferred to this Court. He further submitted that the matter involved in this OA and the matter involved before the Hon'ble Supreme Court in the aforesaid Civil Appeal are exactly similar. Hence as now this matter is subjudice before the Hon'ble Supreme Court, the outcome of the said Civil Appeal shall be applicable to the present OA as well. The learned counsel for the applicants agreed to the submission made by the learned counsel for the respondents.

5. After hearing the learned counsel for the parties, I find that the Civil Appeal No. 129 of 2003 said to be pending before the Hon'ble Supreme Court has already been decided on



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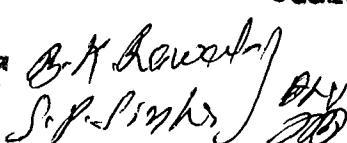
11th August, 2005 by the Hon'ble Supreme Court. The Hon'ble Supreme Court vide judgment dated 11th August, 2005 in the case of State of Punjab & Ors. Vs. Amar Nath Goyal & Ors., (2005) 6 SCC 754 has set aside the orders passed by the Mumbai Bench of the Tribunal as well as the Hon'ble Mumbai High Court and has observed that "Classification rule - Temporal Classification/cut-off date - Fixation of cut-off date - Service matter - Financial constraint, held, was a valid ground for fixation of cut-off date for grant of benefit of increased quantum of death-cum-retirement gratuity - Hence, the action of Govt. in limiting the said benefit to government employees who died or retired on or after 1.4.95 i.e. the cut-off date, was not arbitrary, irrational or violative of Article 14 - Service Law - Central Civil Services (Pension) Rules, 1972."

6. As both the parties agreed that the present Original Application is fully covered by the decision to be taken by the Hon'ble Supreme Court in Civil Appeal No. 129 of 2003 and as the Hon'ble Supreme Court has already decided the said Civil Appeal No. 129 of 2003 in the case of Amar Nath Goyal (Supra) vide order dated 11th August, 2005, I find that the decision so taken by the Hon'ble Supreme Court in the aforesaid case shall mutatis mutandis applicable to the present case as well.

7. In view of the aforesaid position the present Original Application is also liable to be dismissed. Accordingly, the same is dismissed. No costs.

  
(Madan Mohan)  
Judicial Member

पूर्णकल सं. श्री/व्या. .... जवलपुर, दि. ....  
प. क्रितिवा. 2005-08-11  
(1) शिव, डॉ. .... जवलपुर  
(2) आवेदक श्री. .... जवलपुर  
(3) प्रत्यक्षी श्री. .... जवलपुर  
(4) ग्रहणकर्ता श्री. .... जवलपुर  
संघर्षा एवं आवश्यकता के लिए  
SA\*  
उप रजिस्ट्रार

  
B.K. Rawat  
S.P. Singh, J.D.