CENTRAL ADMINISTRATIVE TRIBUNAL

JABALPUR BENCH

(CIRCUIT AT INDORE)

1) O.A. NO.934/2004
2) O.A. NO.935/2004
3) O.A. NO.936/2004
4) O.A. NO.937/2004
5) O.A. NO.674/2004
6) O.A. NO.605/2004
7) O.A. NO.573/2004
8) O.A. NO.574/2004
9) O.A. NO.580/2004
10) O.A. NO.577/2004

This the 10th day of March, 2005.

HON'BLE SHRI V. K. MAJOTRA, VICE-CHAIRMAN (A)

HON'BLE SHRI A. S. SANGHVI, MEMBER (J)

1) O.A. NO.934/2004

Narayanrao Karahe ... Applicant

vs.

Union of India & Others ... Respondents

2) O.A. NO.935/2004

Laxmi Narayan Verma ... Applicant

vs.

Union of India & Others ... Respondents

3) O.A. NO.936/2004

Gulabchand Dhurkunde ... Applicant

vs.

Union of India & Others ... Respondents

4) O.A. NO.937/2004

Gulab Singh Bacchhariya ... Applicant

vs.

Union of India & Others ... Respondents

5) O.A. NO.674/2004

P. S. Damodare ... Applicant

vs.

Union of India & Others ... Respondents

6) O.A. NO.605/2004

Vasant Rao Saitwal ... Applicant

vs.

Union of India & Others ... Respondents

7) O.A. NO.573/2004

K. C. Gite ... Applicant

vs.

Union of India & Others ... Respondents

8) O.A. NO.574/2004

Namdio Deshpande ... Applicant

vs.

Union of India & Others ... Respondents

9) O.A. NO.580/2004

Ram Krishan Bhatt ... Applicant

vs.

Union of India & Others ... Respondents

10) O.A. NO.577/2004

Rathunath Sali ... Applicant

vs.

Union of India & Others ... Respondents

Applicants through Shri S.P.Vakte, Advocate.

Respondents in O.A.s 934, 935, 936, 937, 674, 605, represented by Shri Umesh Gajankush, Advocate.

Respondents in O.A.s 573, 574, 580 & 577/2004 by Shri Umesh Gajankush holding brief for Shri K. N. Pethia, Advocate.

O R D E R (ORAL)

Hon'ble Shri V. K. Majotra, Vice-Chairman (A):

Learned counsel heard.

2. As the facts and issue involved in these cases are identical, they are being disposed of by this common order.

3. Through these O.A.s applicants seek direction to the respondents to re-compute the DCRG payable to them and pay the difference amount of DCRG with interest thereon. These applicants are stated to have retired between 1.7.1993 and 1.4.1995.

4. The learned counsel of applicants pointed out that the applicants were paid retirement gratuity by merger of 20% D.A. in pay. However, they are entitled to the benefit of merger of 97% D.A. in pay by computing DCRG and also payment of consequential difference of the gratuity amount. The learned counsel has relied on order dated 3.2.2005 in O.A. No.703/2003 : Ramanand Saxena v. Union of India & Others. It was also pointed out that O.A. No. 575/2004 was disposed of vide order dated 9.3.2005 - Madhukar Shirpurkar v. Union of India & Others - granting the above relief to the applicant therein. In the matter of Ramanand Saxena (supra) the following directions were made :

> "On the other hand, the learned counsel for the respondents has stated that the applicants have filed the present OAs in pursuance of the judgment passed by the CAT, Mumbai Bench on 21.9.2001 and the Government has already filed a Writ Petition before the Hon'ble High Court at Mumbai and the Hon'ble High Court has admitted the said WP on 29.4.02 and now the matter is sub judice. The Hon'ble Supreme Court in SLP No.18367/02 (arising from the order dated 3.5.02 in CWP 4995/97 of the Hoh'ble High Court of Punjab & Haryana at Chandigarh) (State of Punjab & Ors. Vs. Amar Nath Goyal & Ors.) vide order dated 6.1.2003 has stayed the judgment and order dated 3.5.02, besides this, in an identical case a Review Application No.134/02 in OA No.636/PB/2002 had been filed before the Chandigarh Bench of the Tribunal and the Tribunal vide its order dated 6.6.03 has revised its earlier order dated 10.7.2002 holding that the benefit shall be granted to the applicant therein after the

decision of the Hon'ble Supreme Court if it is favourable. The Hon'ble Supreme Court in Civil Appeal No.129/2003 (State of Punjab vs. Amar Nath Goyal) vide order dated 27.7.04 has directed to transfer the pending Writ Petition from Bombay High Court to the Hon'ble Supreme Court so that all matters on similar question are finally determined. In another identical case the Bangalore Bench of this Tribunal in OA No.727/03 and other connected OAs (M. Damodaran & Ors. v. Union of India & Ors.) vide order dated 2.4.2004 has passed the following order :-

> "Accordingly the applications are disposed of with a direction that the claim of the applicants for revision of pension as well as DCRG would be regulated based upon the judgment to be rendered by the Hon'ble Supreme Court in Civil Appeals as well as connected petitions/Appeals as cited above..."

We have given careful consideration to the rival contentions and the various decisions relied upon by the learned counsel for the parties. We find that the present cases are squarely covered by the decision of the Bangalore Bench of teh Tribunal in the case of M. Damodaran (supra). We also perused the order passed by the Jaipur Bench of the Tribunal in OA No.617/2003 and find that similar issue has already been dealt with. Hence we are in respectful agreement with the order passed by the Bangalore Bench of the Tribunal and we hold that the aforesaid order passed by the Bangalore Bench shall be mutatis mutandis applicable to the cases of the present applications as well. In the result, the Original Applications are disposed of in the above terms. No costs."

5. It is admitted by both sides that while the Bombay High Court had allowed the relief claimed herein, in the case of Baburao Shankar Dhun & Ors. vs. Union of India in OA No.542, 942 & 943/1997, the matter is now pending in Writ Petition before the Hon'ble Supreme Court.

6. We have taken into consideration the facts and circumstances of the present cases. We find that the case of Ramanand Saxena (supra) was a similar matter and as such this matter is fully covered by the aforesaid

order dated 3.2.2005. The present O.A.s are also, as such, disposed of with similar directions.

O.A. No.577/2004

7. So far as O.A. No.577/2004 is concerned, only difference in this O.A. with the other O.A.s is that the applicant herein had retired on 30.6.1993 while the applicants in other cases retired between 1.7.1993 and 1.4.1995. In this connection, the learned counsel of applicant relied on order dated 5.11.2003 of CAT, Bangalore Bench in O.A. No.636/2003 - K.R.Subanna v. Union of India & Ors. wherein it was held that the effective date of retirement of the applicant who retired in the afternoon of 30.6.1993 on superannuation shall be 1.7.1993 and the applicant shall be entitled to merger of DA with pay for purpose of DCRG. In this case reliance was placed on the decision of the Full Bench of the Tribunal in the matter of Venkataram Rajagopalan & Anr. v. Union of India & Ors., reported in Administrative Tribunal Full Bench Judgments (1997-2001) p.50, wherein the Full Bench had held as under :

> "A Government servant completing the age of superannuation on 31.3.1995 and relinquishing charge of his office in the afternoon of that day is deemed to have effectively retired from service w.e.f. 1.4.1995."

We are in agreement with the learned counsel of applicant that in the light of the aforesaid Full Bench judgment as also CAT, Bangalore Bench judgment, the effective date of retirement of the applicant herein who retired in the afternoon of 30.6.1993 shall be deemed to be

1.7.1993 for the purpose of computing DCRG etc. As such, the decision in the above O.A.s shall be applicable to this case as well mutatis mutandis.

8. All the O.A.s are disposed of in the above terms. No costs.

(A. S. Sanghvi)
Member (J)

(V. K. Majotra)
Vice-Chairman (A)

10.3.05

/as/