

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 722 of 2004

Jabalpur this the 6th day of May, 2005

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Judicial Member

G.S. Asiwal, S/o. Shri Deewansingh
Asiwal, DOB - 29.12.36, B/2, Vijay
Nagar, Lalghat, Bhopal.

... Applicant

(By Advocate - Shri S. Paul)

V e r s u s

1. Union of India, Ministry of
Communication, Department of Posts,
New Delhi.

2. Union Public Service Commission,
M.P. Circle, Bhopal.

3. Superintendent of Post Offices,
Bhopal Division, Bhopal. ... Respondents

(By Advocate - Shri K.N. Pethia)

O R D E R

By Madan Mohan, Judicial Member -

By filing this Original Application the applicant has claimed the following main reliefs :

"(ii) command the respondents to extend the benefits of judgment passed by the Mumbai Bench (FB) in OA No. 542, 942 and 943 of 1997 decided on 21.9.2001 (Baburao Shanker Dhuri and others Vs. Union of India and others) Annexure A-3, to the applicant also;

(iii) consequently, command the respondents to pay 97% DA in pay for the purpose of emoluments for calculating DCRG to the applicant."

2. The brief facts of the case are that the applicant is a retired employee of the respondent's department. The applicant submitted that at the time of his retirement the DA was not included in DCRG. The rate of DA was 97%. Hence, the applicant is 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 decided the said matter on 21.9.2001. The said judgment of the Mumbai Bench is

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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 applicant preferred representations regarding his claim but the respondents have not yet decided the same. Hence, this Original Application is filed.

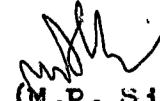
3. Heard the learned counsel for the parties and carefully perused the pleadings and records.

4. The learned counsel for the respondents states 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. He further argued that a similar OA No. 479/2004 - Ramesh Chandra Sharma Vs. Union of India & Ors., was decided by this Tribunal on 10th December, 2004. The learned counsel for the applicant agreed to the submission made by the learned counsel for the respondents.

5. Accordingly, in view of the submissions made above by the learned counsel for the parties, the present Original Application is disposed of with a direction that the outcome of the said Civil Appeal No. 129/2003 shall be applicable in the present OA.

(Madan Mohan)
Judicial Member

"SA"


(M.P. Singh)
Vice Chairman