CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,

Original Application No. 945 of 2004

Gwalior, this the 21st day of June 2005.

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

Rajat Bose,
S/o Late Shri Sridhar Bose
Date of Birth 18.12.1935,
R/o 168-A Idgah Hills,Bhopal — Applicant

(By Advocate – Shri V. Tripathi)

V E R S U S

1. Union of India
Through its Secretary,
Ministry of Steel and Mines,
New Delhi.

2. The Director General
Geological Survey of India
29, Chourangi Road, Kolkata-16

3. The Sr. Deputy Director General
Geological Survey of India
Central Region, Seminary Hills,
Nagpur.

4. The Deputy Director General
Geological Survey of India,
Operation MP-P-1,
E-5, Arera Colony,
Bhopal-16 — 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 sought the following main reliefs :-

"(ii) Command the respondents to extend the benefit 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 remaining 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 retired from service on 31.12.1993. At the time of his retirement he was working on the post of Administrative Officer in the office of the respondents. He was entitled to get the benefit of the scheme of including 97% dearness allowance in the pay for the purpose of payment of DCRG. In this regard he submitted representation dated 4.4.2004 (Annexure-A-4) to the respondents. This representation of the applicant is still pending for consideration. Hence, this Original Application is filed.

3. It is argued on behalf of the applicants that the judgment of the Full Bench of Central Administrative Tribunal, Mumbai Bench in OAs Nos 542, 942 and 943 of 1997 on 21.9.2001 had struck down the memorandum dated 14.7.1995 observing that there was no nexus or rational consideration in fixing the cut off date of 1.4.1995. The full Bench allowed the said OAs and held that the applicants who retired between 1.7.1993 to 31.3.1995 are entitled to the benefits of the scheme of merger of 97% DA in the pay for the purpose of emoluments for calculating death/retirement gratuities.

4. On the other hand, the learned counsel for the respondents has stated that the applicants have filed the present OAs in pursuance of the Judgement 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 29.4.2002 and now the matter is subjudice. The Hon'ble Supreme Court in SLP No.18367/2002 (arising from the order dated 3.5.2002 in CWP 4995/97 of Hon'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 3.5.2002. Besides this, in an identical case a Review Application No.134/2002 in OA No.636/PB/2002 had been filed before the Chandigarh Bench of the Tribunal and the Tribunal vide its order dated 6.6.2003 has revised its earlier order dated 10.7.2002 holding that the benefits shall be granted to the applicants 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 27.7.2004 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.727/2003 and other connected OAs(M.Damodaran & Ors. Vs. 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 death-cum-retirement gratuity would be regulated based upon the judgement to be rendered by the Hon'ble Supreme Court in Civil Appeals as well as connected petitions/appeals as cited above....."

7. 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 the Tribunal in the case of M.Damodaran(supra). We also perused the order passed by the Jaipur Bench of this Tribunal in OA No.617/2003 and find that similar issued has already been dealt with. Hence, we are in respectful agreement with the order passed by the Bangalore Bench of this Tribunal and we hold that the aforesaid order passed by the Bangalore

Bench shall be mutatis mutandis applicable to the case of the present applicant as well.

8. In the result, the Original Applications are disposed of in the above terms. No costs.

(Madan Mohan)
Judicial Member

(M.P.Singh)
Vice Chairman

पृष्ठांकन सं ओ/न्या.....जबलपुर, दि.....
प्रतिलिपि अग्रेषित :—
(1) सचिव, उच्च न्यायालय बार एसोसिएशन, जबलपुर
(2) आवेदक श्री/श्रीमती/कु. .....के काउंसल
(3) प्रत्यर्थी श्री/श्रीमती/कु. .....के काउंसल
(4) ग्रंथपाल, रोपड़, जबलपुर न्यायपीठ
सूचना एवं आवश्यक कार्यवाही हेतु

V. Tripathi
K.K. Pathiapan