

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR.

Original Application No. 498 of 2003

Jabalpur, this the 12th day of March, 2004

Hon'ble Mr. M.P. Singh, Vice Chairman

Hon'ble Mr. Madan Mohan, Judicial Member

K.L Patel aged about 47 years,
Village-Keolari Po. Gosalpur,
Tah. Sihora, Distt. Jabalpur.

APPLICANT

(By Advocate - None)

VERSUS

1. Union of India
Through the Supdt. R.M.S.
J.B. Dr. Jabalpur(M.P.)

2. Chairman P & T Board, New Delhi

3. Chief Post Master Genral, Raipur. RESPONDENTS

(By Advocate - Shri K.N. Pethia)

O R D E R


By M.P. Singh, Vice Chairman -

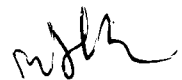
By filing this OA, the applicant has claimed the following main reliefs :-

"That according to order Annex.A-5 the facts stated in para-5 of the petition, the subsistence allowance be kindly revised under suspension on the basis of 4th pay commission report from 1.1.86".

2. The brief facts of the case are that the applicant, while working as Sorting Assistant, S.R.O., Jabalpur Division, Katni, was suspended vide order dated 25.4.1985 (Annexure-A-1) and thereafter he was dismissed from service as per order dated 30.11.1995. He filed an O.A.No.835/2002 before this Tribunal claiming revised subsistence allowance with effect from 1.1.1986 in view of the revision of pay scale [vide order dated 9.12.2002 by the 4th Pay Commission. The said OA was disposed of with a direction to the respondents to dispose of the representation of the applicant by a speaking order. The respondents vide order dated 19.2.2003 have rejected the representation of the applicant. Hence this

3. The applicant has relied on a decision of Hyderabad Bench of this Tribunal in the case of P.Xavier Vs.Chief Personnel Officer and another, (1995) 31 ATC 621 wherein it was held that the applicant who was under suspension on 1.1.1986 when Fourth Pay Commission Pay Scales came into force, was entitled to enhanced subsistence allowance according to revised pay scale w.e.f.1.1.1986 itself.
4. Heard learned counsel for the parties.
5. The issue involved in the present case has already been settled by a decision of larger Bench of 5 judges of this Tribunal in J.S.Kharat Vs.Union of India & others, 2002 (3) ATJ 276 wherein it has been held that "a suspended employee is entitled for subsistence allowance on revised pay scale and his subsistence allowance which is payable month to month has to be paid on the basis of revised pay scale which he would have been entitled had he been in service".
6. In view of the settled position of law, the impugned order dated 19.2.2003 is quashed and set aside. The respondents are directed to grant the subsistence allowance to the applicant w.e.f.1.1.1986 till his dismissal from service, on the revised pay scale and grant him arrears within a period of three months from the date of communication of this order. No costs.

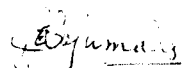

(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman

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