

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR
.....

Original Application No.496/2002

Bilaspur, this the 8th day of *July*, 2004

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Member (J)

Mr. R.G. Wilson, aged about 80 years,
S/o late S.Robert,
Occu: Retired Government Servant,
R/o Oliver "house" No. 1. S.P. Colony,
Katanga, Narmada Road,
Jabalpur.

...Applicant

(By Advocate: None)

-versus-

1. The Principal,
Office of the P.C.D.A.(P),
Allahabad (UP).
2. The Govt. of India,
Through: Senior Quality Assurance Officer
(Armaments), Ministry of Defence (PDGOA),
G.C.F., P.O. Jabalpur (MP).
3. The Govt. of India through
Joint Controller of Defence Accounts (FYS),
Accounts Office (LAJ Section),
G.C.F. P.O. Jabalpur (MP).
4. Union of India through
Secretary,
Defence Ministry,
New Delhi.

...Respondents

(By Advocate: Shri P. Shankaran)

O R D E R

By Madan Mohan, Judicial Member -

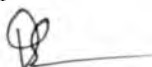
By filing this O.A. the applicant has sought a direction to the respondents to pay minimum pension to the applicant i.e. Rs. 1275/- p.m.

2. The brief facts of the case are that the applicant is a retired Government servant from Gun Carriage Factory, Jabalpur as L.D.C. w.e.f. 31.10.1980. Since then he is drawing civil pension from P.N.B., Jabalpur i.e. Rs. 1275/- but all of a sudden in view of letter issued by the Principal, C.D.A. (P) Allahabad to the Manager, Punjab National Bank, Sadar Bazar, Kingsway, Jabalpur regarding revision of pre-86 and civil

pension of the applicant, holder of PPO NOC/14 in the instant letter it is advised to the Bank that applicant's pension revised on notional pay Rs. 781/- which is not beneficial to him. Consideration pension worked out to Rs. 816/- p.m. w.e.f. 1.1.1996. The applicant wrote a letter to the concerned authorities on 15.1.2002 that the minimum pension of Gr.III Central Govt. servant is Rs. 1275/- p.m. hence it cannot be reduced to Rs. 816/- p.m. without an order passed by the competent authority. The applicant wrote a letter to the Chief Controller of Defence Accounts (Pension) Allahabad regarding revision of pension of pre-86 as on 1.1.1996, it is submitted that last pay drawn by the applicant on 31.10.1980 was Rs. 400/- on attaining the age of superannuation i.e. 58 years. In January, 1996, pension of the applicant was fixed at the minimum of Rs. 1275/- p.m. The applicant submitted an application to CDDA (Pension) Allahabad giving complete details in form on 30.11.2000. It is submitted that unless any order is passed by the competent authority for reducing the pension or deducting the pension therefore in the circumstances of the present case of the applicant reducing the pension from Rs. 1275/- to Rs. 816/- p.m. is without jurisdiction, and the same has been passed even without giving any opportunity of hearing to the applicant. Hence, the pension of the applicant cannot be reduced and no recovery order can be passed without the consent of the applicant. Hence, the present OA has been filed seeking the aforesaid reliefs.

3. None is present for the applicant. On earlier dates i.e. 21.2.2004 & 23.4.2004 on 18.9.2002, 7.11.2002, 20.12.2002 also none was present for the applicant. Since it is an old case of 2002, we proceed to dispose of this OA by invoking the provisions of Rule 15 of CAT (Procedure) Rules, 1987. Heard the learned counsel for respondents.

4. The learned counsel for the respondents argued that the applicant was in receipt of two pensions i.e. Military pension from Army and civilian pension. The consolidated Military pension of the applicant from 1.1.1996 is Rs. 2998/- per month. Therefore, he is not entitled to draw his 2nd Civil



pension at the minimum rate of Rs. 1275/- p.m. as the consolidated pension comes to only Rs. 816/- per month which cannot be stepped to Rs. 1275/- as his first pension is more than Rs. 1275/- per month as stated above. Therefore, fixation of his civil pension at the rate of Rs. 816/- p.m. w.e.f. 1.1.1996 is perfectly in order under the existing instructions on the subject. The civil pension paid to him by the Pension Disbursing Bank at enhanced rate was without the approval of the Pension Sanctioning Authority and it is a mistake. When this was noticed, Pension Sanctioning Authority issued necessary instructions to the Pension Disbursing Bank to restrict his pension at Rs. 816/- p.m. with a copy to the applicant. Therefore, there is no reduction of pension of the applicant without approval of the competent authority and without prior opportunity, as alleged by the applicant. Applicant can claim only his legitimate dues and not a benefit for which he is not entitled to. Hence, the question of giving opportunity prior to rectifying the mistake in consolidation of pension does not arise. The correction of the anomaly in fixing the pension while consolidating it is always within the authority of Pension Sanctioning Authority and it is this authority issued the order to restrict the pension of applicant at Rs. 816/-p.m. under his own power. Therefore, all the allegations made by the applicant are without any substance and cannot be survived on judicial review. Our attention has also been drawn towards Annexure R-2 i.e. the letter dated 24.11.1997 issued by the Govt. of India, Ministry of Defence, New Delhi issued to the Chiefs of Army, Naval and Air Staff to support their arguments.

5. After hearing the learned counsel for the respondents and careful perusal of the record and one letter dated 24.11.97 (R/2) relied upon by the respondents, we find that in the said letter in para no. 5 it is clearly mentioned that:

"Where the consolidated pension/family pension in terms paragraph 4.1.1 above works out to an amount less than



Rs. 1275/- the same will be stepped upto Rs. 1275/-. This will be regarded as pension/family pension with effect from 1.1.1996. In the case of pensioners who are in receipt of more than one pension, the floor ceiling of Rs. 1275/- will apply to the total of all pensions taken together."

In view of this letter, as referred to above, the arguments raised by the respondents seems to be justified. In the present case the applicant is in receipt of two pensions which comes to Rs. 2998/- p.m. i.e. more than the minimum pension of Rs. 1275/-. Hence, the applicant is not entitled to the minimum civil pension at Rs. 1275/- as has been sought for by him in the present O.A.

6. In the result, the O.A. is dismissed with no order as to costs.

(Madan Mohan)
Member (Judicial)

(M.P.Singh)
Vice Chairman

/na/

पृष्ठान्तर्गत सं ओ/न्या.....जलपुर, दि.....

पतिलिपि अर्पित:-

(1) सचिव, उच्च न्यायालय एवं एडवोकेट जनरल, जलपुर

(2) आदेशक श्री/श्रीमती का.....के कार्यालय Sharad Kumar

(3) प्रत्यक्षी श्री/श्रीमती/पु.....के कार्यालय P. Shankaran

(4) न्यायालय, के.प.अ., जलपुर न्यायाधीश

सूचना एवं आवश्यक कार्यवाही हेतु

Shankaran
उप सचिव
15/7/04

Issued
On 15.7.04
BS