

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

CIRCUIT BENCH AT INDORE

Original Application No. 604 of 2001

Jabalpur, this the 4th day of February, 2004

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri G. Shanthappa, Judicial Member

Smt. Suryakanta Rao, w/o.
late Shri P.S. Rao, aged 66 years,
r/o. T-C/10/2, Old MES Colony,
Mhow Cantt.

... Applicant

(By Advocate - Shri D.M. Kulkarni)

V e r s u s

1. Union of India, through
Secretary, Ministry of
Defence, New Delhi.
2. Directorate/MIB, Engineer-in-Chief
Branch, Army Head Quarters DHQ,
New Delhi.
3. The Chief Engineer, Head Quarters,
Central Command, Lucknow.
4. The Chief Engineer, Central
Zone Office, Jabalpur.
5. The Commander Works Engineer,
Jabalpur.
6. The Garrison Engineer,
Mhow M.P.

7. CDA (Pension) Allahabad.

... Respondents

(By Advocate - Smt. S.R. Waghmare)

O R D E R

By G. Shanthappa, Judicial Member -

The said Original Application is filed seeking the following main reliefs :

8.1 arrears towards difference of pension of the applicant's husband from 1.8.82 to 29.1.84;

8.2 arrears of family pension from 30.1.1984 to 31.12.95 considering the corrections made vide corrected PPO No. C/Eng/Corr/97/1997;

8.3 arrears of difference of gratuity (DCRG) on

refixation of the pay of late Shri PS Rao;

8.4 considering the re-fixation of pay, arrears towards the difference of encashment of leave;

8.5 refund of amount recovered from the applicant's husband paid towards pension from 8.5.77 to 2.6.78 (the period regularised by grant of EOL);

8.6 interest at the current market rate on the total amount payable to the applicant and on the arrears paid to the applicant according to the CDA (Pension) Allahabad, Corrected PPO No. ENG/PRE86/5835/2000 dated 14.6.2000 at market rate of 18% p.a."

2. The brief facts of the case are that the ^{husband of the} applicant late Shri PS Rao was prematurely retired during emergency with effect from 8.12.1975. Subsequently he was reinstated in service on 3.6.78. It was directed that the period between date of premature retirement and reinstatement would be regularised by granting leave due followed by EOL without pay and allowances and the intervening period was regularised as under :

- | | | |
|------|--------------------------|----------|
| "i) | from 9.12.75 to 14.12.75 | - E.L. |
| ii) | from 15.12.75 to 7.5.77 | - H.P.L. |
| iii) | from 8.5.77 to 2.6.78 | - EOL |

Earlier the applicant has approached this Tribunal in OA No. 569/1996. This Tribunal has disposed of the said OA on 1st September, 2000 with the following direction :

"5. Accordingly, this OA is disposed of with a direction to the respondents that in case payment, against E.L. and H.P.L. which was so regularised during the period of premature retirement to reinstatement, has not been paid, the same shall be paid to the applicant within a period of two months from the date of receipt of this order. In case the same is not payable now having been paid earlier, the applicant shall be informed accordingly within the said period."


pension &
The family pension of the applicant's late husband and the applicant respectively were issued vide PPO No. C/Eng/Corr/97/1997. The applicant had been paid only the arrears of the revised family pension for the period from 1.1.1996 to 31.7.2000 (i.e. with effect from 1.1.1996). The grievance of the applicant has not been considered. The respondent

No. 6 in his declaration dated 3.10.1997 has made false statement before the Tribunal that all the dues have been paid to the applicant, whereas the refixation of pension and family pension had been done vide order dated 14.6.2000 forwarded to Punjab National Bank, Manoramaganj. Rs. 8216/- had been recovered (adjusted) as interest on DCRG from 75-76 to 83-84 on the amount of Rs. 7930/- as paid to the applicant's late husband towards DCRG after premature retirement. So far the applicant has not yet been paid the arrears towards the following :-

- i) difference of pension of applicant's late husband i.e. for the period from 1.8.1982 to 29.1.84;
- ii) difference of family pension from 30.01.1984 to 31.12.1995 considering the corrections made vide Corrected PPO No. C/ENG/Corr/97/1997;
- iii) difference of gratuity (DCRG) on refixation of pay of late Shri PS Rao as per CDA Pension, Allahabad Corrected PPO No. C/ENG/Corr/97/1997;
- iv) difference towards encashment of leave considering the refixation of applicant's late husband's pay;
- v) Amount recovered from the applicant's late husband paid towards pension and relief from 28.5.1977 to 2.1.78 (the period regularised by grant of EOL) has not been refunded which is against Govt. of India, Ministry of Finance OM No. F\$ (12) E.V(B)/76 dated 30.3.1978. The intervening period i.e. from 9.12.75 to 2.1.1978 was regularised by grant of leave (E.L. 9.12.75 to 14.12.75 - 6 days and HPL from 15.12.75 to 7.5.77 - 509 days and EOL -8.5.77 to 2.6.78) by the respondents, and the period regularised by grant of EOL has not been counted for qualifying service by respondents. The request of the applicant made vide OA 569/96 based on the orders of the Government of India (Department of Personnel and AR) No. 25013/14/77-Estt. dated 10.8.1978 had not been accepted by the Hon'ble CAT."

Hence the action of the respondents is illegal and the relief as prayed in this OA is liable to granted.

3. Per contra the respondents have filed their reply stating that they are paying the family pension to the applicant according to PPO dated 14.06.2000. But no payment has been done according to Corr PPO C/Eng/Corr/97, due to



the reason mentioned by the Bank in the letter dated 16.05.2002 (Annexure R-1). It is mentioned by the respondents that neither the Bank nor the applicant has intimated earlier about the non-payment of arrears of pension and DCRG, except through the present OA and the Bank's letter dated 16.05.2002. The payment of encashment of leave worked out on the basis of pay @ Rs. 710/-, need to be revised on the basis of Rs. 775/- per month. On the basis of the refixed pay @ Rs. 775/- PPO No. C/Eng/1911/83 has been revised through Corr PPO No. C/Eng/Corr/97/1997 received through CECC Lucknow letter dated 27.03.1997. The same was forwarded to PDA Treasury Office, Indore for early payment to the applicant. Simultaneously the applicant has been intimated and she was requested to liaise with PDA, Indore and intimate regarding receipt of the revised pensionary benefits. The applicant never intimated about the unpaid claims except through the present OA. The declaration dated 03.10.1997 was made correctly in the light of issue of Corr PPO No. C/Eng/Corr/97/1997, to the Pension Distributing Officer of the Treasury Office, Indore.


4. After filing the reply the applicant has submitted her rejoinder contending that the arrears towards difference of pension of the applicant's husband from 1.8.1982 to 29.1.1984, payment of arrears of family pension from 30.1.1984 to 31.12.1995 and difference of gratuity, DCRG on refixation of pay of the applicant's husband have been received after filing of this OA. This amounts to Rs. 8382/- paid in August, 2002 after a lapse of more than 20 years, after the applicant's husband retired on 31st July, 1982. The applicant is entitled to penal interest on this amount as or any reason the applicant's husband or she

from the applicant's husband paid towards pension from 8.5.1977 to 2.6.1978, the applicant has to state that para 3(iii) of Annexure A-7 provides that where the period of leave is treated as leave due and admissible, the pension amount shall be adjusted against the leave salary. The applicant is entitled for interest at the rate prevailing in the year 2000 and 2002 on the respective payments made to the applicant and other payments likely to be made.

5. After filing the rejoinder the respondents have filed the parawise reply to the rejoinder contending that the husband of the applicant retired on superannuation on 31st July, 1982 and the pension paper was initiated by GE No. 1, Mhow within stipulated time and forwarded to HQ CE CC Lucknow under letter dated 11th December, 1981. Thus there is no delay on their part. The specific contention of the respondents is that a sum of Rs. 3025/- has been paid to the applicant on 1.1.1997. On the basis of study of records, it came to the notice of the respondents that the officer has drawn both pay and allowances and civil pension during 3.6.78 to 31.7.78. The applicant ^{husband} was reinstated on 3.6.78 and his pension was stopped on 1.8.78. Hence ~~the applicant~~ ^{he} has taken undue advantageous from the Government and this fact has never brought out in various correspondence.

6. After hearing the advocate for the applicant and the advocate for the respondents and on careful consideration of the records, we decide the Original Application finally.

7. It is an admitted fact that the applicant has received the arrears of pension during the pendency of



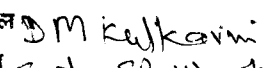
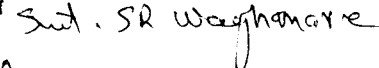
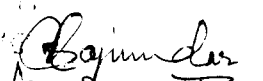
this Original Application. It is also admitted fact that the husband of the applicant was reinstated on 03.06.1978 and during that period he has received the salary. The same was not intimated to the respondents. The question in this case is that the respondents have made delay on payment of the pensionary benefits. Accordingly, the applicant, ^{the} is entitled for the interest as per the rates ^{of GPF} prevailing at the relevant point of time. The respondents are directed to calculate the interest for the delayed payment of pensionary benefits and after adjusting the salary paid from 03.06.1978 to 31.07.1978, settle the pensionary benefits to the applicant. To comply with the said direction the respondents are granted two months time from the date of receipt of copy of this order.

8. Accordingly, the Original Application is disposed of with the observation made above. No costs.


(G. Shanthappa)
Judicial Member


(M.P. Singh)
Vice Chairman

"SA" पृष्ठांकन सं. ओ.का. जयलपुर, दि.
पु.वि. सं.

- (1) सर्वोच्च न्यायालय, नया दिल्ली
 - (2) उच्च न्यायालय, जयलपुर
 - (3) जयलपुर न्यायालय, जयलपुर
 - (4) जयलपुर न्यायालय, जयलपुर
- सूचना एवं आदेशक, जयलपुर
-  M. Kulkarni
 S.R. Waghmare
 Rajinder
उप रजिस्ट्रार 11/2/04

Filed
ms
11/2/04