

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

original Application No. 734/2000

Jabalpur, this the 12th day of March, 2004

HON'BLE SHRI M.P.SINGH, VICE CHAIRMAN
HON'BLE SHRI MADAN MOHAN, MEMBER (J)

Prabhakar Narayan Dubey
S/o Gandalal Dubey,
Aged about 75 years,
R/o H.No. 1768, Ganga Maiya,
Post Office Vehicle Estate,
Jabalpur (MP).

...Applicant

(By Advocate: None)

-versus-

1. Union of India through
Secretary,
Defence,
Dept. of Defence Production,
Govt. of India
Ministry of Defence, Ordnance Factory,
Board, 10-A, Auckland Road,
Calcutta.
2. The General Manager,
Ordnance Factory,
Khamaria, Jabalpur (MP) .
3. The Chief C.D.A.(Pension),
Allahabad (UP).

...Respondents

(By Advocate: Shri S.A.Dharmadhikar)

O R D E R

By Shri Madan Mohan, Member (J):

By filing this C.A. the applicant has sought the following main reliefs:-

- i) to direct the respondents to fix the pension of the applicant at Rs. 968 per month instead of Rs.955/- fixing his correct pay at Rs. 2050/- instead of Rs. 2000/- and pay him all arrears thereof.
2. The brief facts of the case are that the applicant was a Chargeman Grade-I under the Management of respondent no. 2 under the sovereign Power of respondent no. 1 and respondent no. 3 is the pension sanctioning authority of defence employees like the applicant. The applicant after completion of 31 years 11 months and 15 days continuous service, retired from his job due to his superannuation on 30.7.1983 in the scale of Rs. 550-750/-

of his pay as on 1.1.1986 in the scale of Rs. 1600-2660/- fixed the pay at Rs. 2000/- for the purposes of re-fixing pension according to provisions provided in the 5th Pay Commission. The respondents fixed the pension of the applicant at Rs. 955/- w.e.f. 1.1.1986 instead of Rs. 968/- which effected applicant's pension as on 1.1.1996 at Rs. 13/- less and on its less DR and IR also in this way the respondents fixed applicant's pension less than that the applicant was entitled. It is further submitted that the respondents fixed applicant's pension 41/- less as on 1.1.1996 for which the applicant is entitled to get the arrears till date. The applicant approached the respondents on a number of occasions and requested in person also as well as in writing to give the benefit of one increment of Rs. 50/- and to fix his pay at Rs. 2050/- in the scale of Rs. 1600-2660/- for the purposes of national fixation of his pay to get pensionary benefits under the provisions of 5th pay Commission report applicable w.e.f. 1.1.1986 but the respondents did not fix the amount of pension in accordance with rules and guidelines. Hence, this C.A. has been filed.

3. Since this is an old matter pertaining to the year 2000 and none is present of behalf of the applicant, we are disposing of this C.A. by invoking the provisions of Rule 15 of C.M.T (Procedure) Rules, 1987 and hearing the learned counsel for the respondents.

4. Learned counsel for the respondents argued that the applicant had rendered qualifying service of 31 years 11 months and 15 days which was taken into account for calculating his pension as per sub rule 3 of Rule 49 of CCS(Pension) Rules, 1972 which reads as under:-

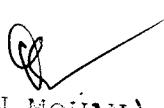
"(3) In calculating the length of qualifying service, fraction of a year equal to six months and above shall be treated as a completed one half-year and reckoned as qualifying service."

In view of the above rule position the applicant's qualifying service was taken as 31½ years. Subsequently

the retirement of the applicant, an amendment was made by the Government of India in the said rules providing to treat the fraction of a year equal to three months and above as completed one-half year. Since the said amendment came into force after the retirement of the applicant, the same is not applicable to the applicant's case and the pension of the applicant has rightly beenfixed.

5. After careful consideration of the contention of the respondents and perusal of the sub rule 3 of the Rule 49 of CCS (Pension) Rules, 1972, we are of the considered view that the stand taken by the respondents is against the rules and the length of applicant's total service comes to 32 years for the purposes of calculating the pension. Therefore, the applicant is entitled for the relief to the extent of re-fixation of the pension at Rs. 968/- instead of 955/- as has been fixed by the respondents.

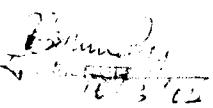
6. In view of the above, the O.A. is partly allowed and the respondents are directed to fix the pension of the applicant at Rs. 968/- instead of Rs. 955/- w.e.f. 1.1.1996 and pay him all the consequential benefits arising out of it within a period of three months from the date of receipt of a copy of this order. No costs.


(MANDAN MOHAN)
MEMBER(J)

/na/


(M.P. SINGH)
VICE CHAIRMAN

MR Bhatia
Smt Dhananjay Singh



ISSUED
16-3-09