CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH ,
CHANDIGARH .

10

23.O.A. No.060/00270/2014

(GHAN SHAM DASS NARANG VS. UOI)

09.01..2015

Present: Mr. R.P. Mehra, counsel for the applicant.
Dr. Sushila Bhardwaj, counsel for the respondents.

Heard the learned counsel for the parties. **'ORDERS RESERVED'.**

(DR. BRAHM A. AGRAWAL)
MEMBER (J)

(RAJWANT SANDHU)
MEMBER (A)

'sv'

9. We have given our careful consideration to the matter. There does not appear to be any defect in the revision of pension effected in the case of the applicants in these OAs as the same is in accordance with the OM F.No.38/37/08-P&W(A), dated 01.09.2008 (Annexure R-2) and the tables attached with the OM. Although, it appears that another OM was issued on 28.01.2013 regarding revision of pension of pre 2006 pensioners (Annexure R-3) and the pension of the applicant might actually be reduced if the pension is revised in accordance with this OM, Sh. K.P.S.Dhillon, learned counsel for the respondents has made a statement at the bar that the respondents will not take any action to reduce the pension of the applicants from the level which they are drawing at present.

10. In view of the discussion above, we conclude that there is no merit in these OAs and the same are rejected. Copy of this order may also be placed in files relating to OA Nos.060/00157/2014, 060/00269/2014 and OA.No.060/00270/2014. No costs.

(RAJWANT SANDHU)
ADMINISTRATIVE MEMBER.

(DR. BRAHM A. AGRAWAL)
JUDICIAL MEMBER

Place: Chandigarh
Dated: 09.01.2015
sv:

Certified True Copy/प्रमाणित सत्य प्रतिलिपि
अनुभाग अधिकारी (Judl.)
Central Administrative Tribunal
चण्डीगढ़ पीठ/Chandigarh Bench
चण्डीगढ़ / Chandigarh
21/1/15

3. The Director of Accounts (Postal), Ambala.

4. The Secretary, Ministry of Communication Government of India, New Delhi.

.... Respondents

Present: Mr. R.P. Mehra, counsel for the applicant
Mr. B.B.Sharma, counsel for the respondents

(iii)O.A.No.060/00269/2014

Ramesh Chand, resident of House No. 24, Amar Nagar, Ambala Cantt.

... Applicant

Versus

1. Union of India through its Secretary, Ministry of Communication Government of India, New Delhi.

2. The Chief Post Master General, Haryana Circle, Ambala.

3. The Superintendent, RMS Haryana Division, Ambala.

4. The Director of Accounts (Postal), Ambala.

.... Respondents

Present: Mr. R.P. Mehra, counsel for the applicant
Mr. Suresh Verma, counsel for the respondents

(iv)O.A.No.060/00270/2014

Ghan Shyam Dass Narang, son of Sh. Topan Dass, resident of House No. 73, Ram Nagar Panipat.

... Applicant

Versus

1. Union of India through its Secretary, Ministry of Communication, Government of India, New Delhi.

2. The Chief Post Master General, Haryana Circle, Ambala.

3. The SSPO, Hissar, Division Hissar.

4. The Director of Accounts (Postal), Ambala.

.... Respondents

Present: Mr. R.P.Mehra, counsel for the applicant
Dr. Sushila Bhardwaj, counsel for the respondents

O R D E R
HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)

1. These four OAs have been filed seeking rectification of the pension allowed to the applicants after 01.01.2006 when the recommendations of the 6th Central Pay Commission were implemented. Since relief claimed in the OAs as well as the grounds taken in support of the same are virtually identical, these are disposed of through a common order. However, for convenience the facts are taken from OA No.156/2014.

2. Averment has been made in the OA that the applicant retired from the service of the respondent Department on 28.02.1998. His pension was revised to Rs.7580 w.e.f. 01.01.2006, but this was not according to the applicable stage of pre revised scale corresponding to revised pay scale and the respondents could not have discriminated between pre 2006 and post 2006 pensioners. He preferred OA No.737/HR/2013, which was disposed of vide order dated 04.02.2014 directing the respondents to pass a reasoned and speaking order on the legal notice that had earlier been served upon the applicants. The

respondents replied vide letter dated 06.01.2014 (Annexure A-2) and the same is impugned on the ground that the recommendations of the 6th Central Pay Commission are contained in Resolution dated 29.08.2008 (Annexure A-3) and relevant para 12 of the resolution for recommendation and acceptance / non-acceptance reads as follows:-

> "Recommendation of the Commission
>
> Para 12 All past pensioners should be allowed fitment benefit equal to 40% of the pension excluding the merger of 50% dearness allowance/dearness relief as pension (in respect of pensioners retiring on or after 01.04.2004) and dearness pension (for other pensioners)respectively. The increase would be allowed by subsuming the effect of conversion of 50% of dearness relief/dearness allowance as dearness pension/dearness pay consequently, dearness relief at the rate of 74% on pension (excluding the effect of merger) has been taken for the purposes of computing revised pension as on 01.01.2006. This is consistent with the fitment benefit being allowed in case of existing employees. The fixation of pension will be subject to the provision that the revised pension, in no case shall be lower than fifty percent of the sum of the minimum of the pay in the pay band and the grade pay thereon corresponding to the pre revised pay scale from which the pensioner had retired.
>
> Decision of the Government
>
> Accepted with the modification that fixation of pension shall be based on a multiplication factor of 1.86 i.e. basic pension + dearness pension (wherever applicable) + dearness relief of 24% as on 01.01.2006 instead of 1.74."

The decision of the Government left no scope for doubt and as per this decision when basic pension of Rs.3355 and dearness pension of Rs.1678 is multiplied by a factor of 1.86 the same is computed at Rs.9361 and Rs.5033 when multiplied by 24% when the amount comes Rs.1208. Both

when totaled i.e. Rs.9361 plus Rs.1208, the amount comes to Rs.10569 and not Rs.7583 as computed by the respondents. Hence this OA.

3. In the written statement filed on behalf of the respondents, preliminary objection has been taken that as per the Government of India (Allocation of Business) Rules dated 14.01.1961 (Annexure R-1) formulation of Policy and Coordination of matters relating to retirement benefits to Central Government employees comes under the jurisdiction of the Department of Pension and Pensioners Welfare, Ministry of Personnel, Public Grievances and Pension. However, the Ministry of Personnel, Public Grievances and Pension had not been arrayed as respondent in the OA and hence the same was bad for non-joinder of necessary parties.

4. It has further been stated that the applicant retired on 28.02.1998 on attaining the age of superannuation as Postal Assistant Panipat, Kranti Nagar Post Office. He was drawing Basic Pay of Rs. 6800 in the pay scale of Rs. 5000-150-8000 at the time of retirement. His pension was fixed as Rs.3355 as per extant rules and instructions on the subject. The Ministry of Personnel, Public Grievances & Pension, Department of Pension & Pensioner's Welfare, New Delhi, issued O.M dated 01.09.2008 regarding revision of pension of pre-2006 pensioners / family pensioners etc. Para 3.1(b) of the OM states that existing pension means the basic pension inclusive of commuted portion, if any, due on 31.12.2005. As per O.M dated 01.09.2008, the

basic pension of the applicant is Rs.3355 (Annexure R-2). Subsequently, the Department of Pension and Pensioners Welfare issued OM dated 28.01.2013 along with a revised concordance table of the pre-1996, pre-2006 and post 2006 pay scales / pay bands indicating the pension / family pension payable to the pensioners. These orders take effect w.e.f. 24.09.2012. As per OM dated 28.01.2013, the pension due to the applicant comes out to be Rs.6750, but the pensioner is already drawing Rs.7583 in accordance with OM dated 1.9.2008:

Basic Pension as on 01.01.2006	=3355
Dearness Pension as on 01.01.2006	=1678 (50% of B.P.)
Dearness Relief of 24% as on 01.01.2006	=1208 (24% of B.P.+D.P.)
Fitment benefit	=1342 (40% of B.P.)
Total	=7583/-

5. The directions in order dated 04.02.2014 in OA No.737/HR/2013 had been complied with and a reasoned and speaking order had been issued in the matter on 23.05.2014 (Annexure R-4).

6. Arguments advanced by the learned counsel for the parties were heard. Sh. R.P.Mehra, learned counsel for the applicants in these OAs reiterated the content of the OAs and further cited "K. Kuppusamy & Anr. Vs. State of T.N. & Ors." Reported (1998) 8 SCC 469, to press that statutory rules and policy formulated by the Government could not be overridden by executive orders or executive practice and the respondents were not implementing the recommendations of the 6th

Central Pay Commission contained in para 12 of the Resolution dated 29.08.2008 in the proper spirit.

7. Sh. K.P.S.Dhillon, learned counsel for the respondents stated that the present OA was bad for non-joinder of the necessary party i.e. Department of Pensions and Pensioners Welfare.Ministry of Finance had also not been impleaded in the matter. Besides, although the pension fixation has been made in accordance with the OM dated 01.09.2008 and the consolidated pension of the applicant thereby came to be Rs.7583, the OM had not been impugned through the OA. The applicant had not been able to point out any defect in the implementation of the OM. OMs dated 01.09.2008 and 28.01.2013 had been issued for the guidance of the pension revising authorities and the concerned Departments/Banks had to follow these. Hence, the pension of the applicant had been fixed correctly and there was no merit in this OA.

8. Sh. B.B.Sharma, Sh. Suresh Verma, and Dr. Sushila Bhardwaj, learned counsel for the respondents in OAs No.060/00157/2014, 060/00269/2014 and 060/00270/2014 respectively stated that they wished to adopt the arguments advanced by Sh. K.P.S.Dhillon, learned counsel for the respondents in O.A. No.060/00156/2014.

9. We have given our careful consideration to the matter. There does not appear to be any defect in the revision of pension effected in the case of the applicants in these OAs as the same is in accordance with the OM F.No.38/37/08-P&W(A), dated 01.09.2008 (Annexure R-2) and the tables attached with the OM. Although, it appears that another OM was issued on 28.01.2013 regarding revision of pension of pre 2006 pensioners (Annexure R-3) and the pension of the applicant might actually be reduced if the pension is revised in accordance with this OM, Sh. K.P.S.Dhillon, learned counsel for the respondents has made a statement at the bar that the respondents will not take any action to reduce the pension of the applicants from the level which they are drawing at present.

10. In view of the discussion above, we conclude that there is no merit in these OAs and the same are rejected. Copy of this order may also be placed in files relating to OA Nos.060/00157/2014, 060/00269/2014 and OA.No.060/00270/2014. No costs.

(RAJWANT SANDHU)
ADMINISTRATIVE MEMBER.

(DR. BRAHM A. AGRAWAL)
JUDICIAL MEMBER

Place: Chandigarh
Dated: 09.01.2015
sv: