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CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH

.....
Pronounced on: 26.8.2015
Reserved on : 21.08.2015

OA. No. 060/00139/14

**CORAM: HON'BLE MRS.RAJWANT SANDHU, MEMBER(A)
HON'BLE DR. BRAHM A.AGRAWAL, MEMBER(J)**

Smt. Tej Kaur age 98 years, wife of Late Sh. Bishamber Dass, Ex-Railway Driver 'B', Amritsar, resident of House No. 35, Santosh Niwas, Abrol Nagar, Pathankot – 145001.

.....Applicant

**BY ADVOCATE: Sh. K.B. Sharma proxy counsel for Sh. D.R.
Sharma**

VERSUS

1. Union of India, Ministry of Railways through its General Manager, Northern Railway, Baroda House, New Delhi.
2. The Senior Divisional Finance Manager, Northern Railway, Ferozepur Cantt.
3. The Senior Divisional Personnel Officer, Northern Railway, Ferozepur Division, Ferozepur Cantt.
4. The Manager, Punjab National Bank, Model Town, Pathankot.

.....Respondents

BY ADVOCATE: Sh. Lakhinder Bir Singh

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ORDER

HON'BLE MRS. RAJWANT SANDHU, MEMBER(A):-

1. This OA has been filed under Section 19 of the Administrative Tribunals Act, 1985 seeking following relief(s):-

- (i) That impugned order dated 12.09.2013 (Annexure A-1) be quashed and set aside in the interest of justice whereby the family pension of applicant has been reduced illegally and arbitrarily.
- (ii) That respondents be directed to issue correct Revised PPO w.e.f. 01.01.2006, 01.01.1996 and 01.01.1986 and release the arrears thereto.
- (iii) That it be declared that in the light of judicial pronouncements, no recovery can be effected from the pension etc. of the excess amount paid by the respondents without there being any misrepresentation, fraud etc. on the part of employee and because it will cause hardships to retired employees like the applicant.
- (iv) That applicant be held entitled to all consequential benefits and reliefs alongwith interest @ 18% on delayed release of pension, family pension and arrears thereto.

2. Interim relief was also sought praying that the impugned order dated 12.9.2013 (Annexure A-1) be stayed and the respondents be restrained from making recovery of alleged over payment.

3. When the matter was taken up for hearing on admission on 18.2.2014, recovery was stayed and this position continues till date.

4. Averment has been made in the OA that the applicant is a senior citizen of 98 years old. The late husband of applicant, namely Sh.

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Bishamber Dass was a pre-1986 retiree. He worked as Driver 'B' Passenger, SSE/Loco Shed, Amritsar w.e.f. 15.03.1930 and retired from service on 30.11.1968 and expired on 04.04.1997. The respondents issued Revised PPO No. 0168050151 dated 10.12.2012 w.e.f. 01.01.2006 (Annexure A-7) fixing the family pension as Rs. 5256/- w.e.f. 01.12.2010 in the corresponding Pay Band of Rs. 9300-34800 with Grade Pay of Rs. 4200/- w.e.f. 01.01.2006. Pursuant to Revised PPO dated 10.12.2012 w.e.f. 01.01.2006, the Bank revised pension w.e.f. 01.01.2006 and family pension w.e.f. 05.04.1997 and made payment of arrears w.e.f. 01.01.2006 only. Since Revised PPO w.e.f. 01.01.1986 and 01.01.1996 were not issued, the bank refused to revise pension w.e.f. 01.01.1996 and arrears for the period 01.01.1996 to 04.04.1997 and period 05.04.1997 to 31.12.2005 of revised pension. Applicant represented on 25/26.03.2013 (Annexure A-6) before the respondents to issue revised PPO w.e.f. 01.01.1986 and 01.01.1996 so that arrears of claim could be prepared and paid. Applicant duly submitted that though vide Revised PPO dated 10.12.2012, the Bank was issued instructions to pay arrears of revised pension w.e.f. 01.01.2006, but no instructions have been issued for payment of arrears of pension w.e.f. 01.01.1996 to 04.04.1997 and arrears of revised family pension w.e.f. 05.04.1997 to 31.12.2005. The applicant

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again represented for issuance of revised PPO on the basis of instructions contained in OM dated 10.02.1998 for Pre-1986 pensioners/family pensioners w.e.f. 01.01.1996 and 01.01.2006. Copy of representations dated 17.4.2013 and 31.05.2013 are annexed as Annexures A-5 and A-4.

5. It is further stated that vide letter dated 12.09.2013 (Annexure A-1), the Senior Divisional Finance Manager, Northern Railway, Ferozepur Cantt, supplied to Bank the Revised PPO dated 09/2013 w.e.f. 01.01.1996 and dated 06.09.2013, 01.01.2006 reducing the pension to Rs. 3805/- and family pension to Rs. 4080/- as against Rs. 5256/- which applicant was drawing w.e.f. 01.01.2006 and the Bank has further been ordered to make recoveries. The applicant submitted application dated 31.10.2013/01.11.2013 and sought certain information with regard to Calculation Sheet of Pension and Family Pension and fixation of Notional Pay on different dates but complete information has not been supplied till date. It is in such an eventuality that the applicant, a Senior Citizen of 98 years, is knocking the doors of this Tribunal.

6. In the grounds for relief, it has inter alia been stated as follows:-

(i) Because the respondents have wrongly reduced the family pension of applicant to Rs. 4080/- as against Rs. 5256/- which was granted w.e.f. 01.01.2006 to applicant vide Revised PPO dated 10.12.2012. Further, in the Revised PPO dated 09/2013, the respondents have

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wrongly reduced the corresponding Pay Band and Grade Pay of applicant to Rs. 5200-20200 with GP 2800 as against Rs. 9300-34800 with Grade Pay of Rs. 4200 w.e.f. 01.01.2006 and the Last Grade in the scale of Rs. 4500-7000 as against Rs. 5000-8000 which was granted to applicant's husband w.e.f. 01.01.2006 as is evident from earlier Revised PPO dated 10.12.2012 and RTI reply dated 27.05.2013 and 23.08.2011 (Annexurkes A-10 and A-9 respectively).

- (ii) Because reduction of family pension causes civil consequences upon the applicant, non-affording of an opportunity is in violation of principles of natural justice, as ruled by the Apex Court in Prakash Ratan Sinha Vs. State of Bihar & Ors. 2009(9) SCALE 529. In the above view of the matter, refixation and consequent recovery etc. cannot be countenanced in law.
- (iii) Because it is settled law that no recovery can be affected/made from the employee there being no mis-representation, fraud etc. on his/her part and more particularly from the retired ones because of hardship that will face because of recovery during their last innings of life, therefore, the impugned orders are liable to be set aside by this Court.

7. Short reply was filed on behalf of respondents No. 1, 2 & 3 where it had been stated that the applicant is the widow of Late Sh. Baleshwar Das who retired from the Railways as Driver 'B' on 30.11.1968 & died on 4.4.1997. He neither objected to the fixation of his pension on his retirement nor to the implementation of the 4th & 5th Pay Commissions' recommendations. After the death of the pensioner, the widow of the deceased pensioner started drawing family pension direct from the bank w.e.f. 05.04.1997. On 02.02.2011, Smt. Tej Kaur applied for revision of family pension which was revised w.e.f. 1.1.2006 at Rs.

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5256/- p.m. on the basis of the wrong duplicate record and Pension Payment Order as the original record was not traceable. A wrong calculation was thus inadvertently made. On 16.4.2013, the applicant again applied for revision of pension from back date 1.1.1986 and 01.01.1996. This time, the pension and family pension were correctly revised to Rs. 4080/- p.m. w.e.f. 01.01.1996 and 01.01.2006 vide PPO dated 6.9.2013 (Annexure A-1). As per ready reckoner, pension has been fixed at Rs. 4080/- w.e.f. 1.1.2006 vide Annexure A-1 as follows:-

Pensioner's death : 04.04.1997

Family Pension w.e.f. 05.04.1997

Family pension as on 01.01.1986 Basic Pay Rs. 1440 + 75% running allowance Rs. 1080/- = $2520 \times 20\% = 504 + R$

Family pension as on 01.01.1986 Basic Pay Rs. 1440 + 75% running allowance Rs. 1080/- = $2520 \times 30\% = 756 + R$

Additional Family Pension w.e.f. 01.01.1996 = Rs. 756-504+252+R

Family Pension as per ready reckoner : 20% family pension = Rs. 504/-

The Family Pension comes to Rs. 1553/- (Annexure R-2)

Total Family Pension w.e.f. 01.01.1996 = Rs. 1553 + 252 = 1805

Family Pension w.e.f. 01.01.2006 : Rs. 1805 x 2.26 = 4080/- as per 6th

Pay Commission.

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The overpayment of Family Pension to the applicant resulting from reduction in pension because of rectification of wrong calculation was sought to be recovered vide letter dated 12.09.2013 to the disbursing banker, Punjab National Bank, Gurdaspur. The Bank was asked to calculate the pension according to the latest Pension Payment Order & necessary payment/over payment be recovered from the pensioner/family pensioner. In the peculiar facts of this case, no opportunity of hearing to the applicant was necessary before withdrawal of the undue benefits to the applicant.

8. Affidavit has also been filed on behalf of the respondents in compliance with directions of order dated 06.05.2015 regarding the fixation of the pension of the applicant due to her from time to time.

9. No rejoinder has been filed on behalf of the applicant.

10. When the matter came up for consideration, learned counsel for the applicant could not point out any defect in the affidavit filed on behalf of the respondents indicating the stage-wise fixation of the pension of the applicant.

11. Learned counsel for the respondents stated that over payment of pension had been released to the applicant for a period of only nine months due to the wrong duplicate record submitted by her

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when she sought revision/correction of her PPO. On verification of the record, the error was detected and the PPO was revised. He stated that the applicant was entitled to only the correct pension due to her and nothing more than that, and hence there is no merit in the OA.

12. We have given our careful consideration to the matter. The affidavit filed on behalf of the respondents on 16.8.2015 appears to be in order. However, keeping in view the fact that the applicant is an old lady aged around 98 years, we are of the view that the excess payment of pension that has been made to her, need not be recovered as this would only be the small amount as the overpayment was made over a period of nine months only. Apart from this, the claim of the applicant for re-fixation of her pension is without merit and the same is rejected. The OA is disposed of with these observations. No costs.

(RAJWANT SANDHU)
MEMBER(A)

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

Dated: 26.8.2015.
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