

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/00825 /2016

DATED THIS THE 20th DAY OF NOVEMBER 2017

HON'BLE DR. K.B. SURESH, MEMBER(J)

HON'BLE SHRI PK.PRADHAN MEMBER(A)

Udayanarayana, KT,
S/o KT.Bhat,
Aged about 61 years,
Retd. Scientist,G-LRDE,
Residing at No.149,
LRDE Layout, Karthiknagar,
Marathahalli,
Bangalore-560 093.

...Applicant

(By Shri T.Narayanaswamy , Advocate)

Vs.

1.Union of India represented by
Secretary ,
Ministry of Defence,
South Block,
New Delhi-110 011.

2.The Director General,
Defence Research and Development Organization,
Ministry of Defence,
DRODO Bhavan, Rajaji Marg,
New Delhi-110 105.

3.The Director,
LRDE, CV.Ramannanagara,
Bangalore-560 038.

..Respondents.

(By Smt. PK.PraneshwariSr. Panel Counsel)

O R D E R (ORAL)

HON'BLE DR. K.B. SURESH, MEMBER(J)

1. Shri T.Narayanaswamy, learned counsel for the applicant files a synopsis which apparently covers the entire gamut of the case. Smt PK.Praneshwari , learned counsel for the respondents is also in agreement by the irreversibility of the contention raised by Shri T.Narayanaswamy. Therefore, we quote from the synopsis:-

“2. It is most respectfully submitted that various judgments of the Principal Bench and various other benches including this Hon'ble Tribunal, Bangalore Bench cover the matter in issue and the respondents are also not disputing the same. On the other hand, only grievance is to postpone the matter till disposal of the SLP's.

3. The Principal Bench in OA.No.2509/2010 disposed of on 6.1.2011, which is annexed to this OA., as Annexure A-10 has gone into the matter in detail. It has reiterated that the term pension means by quoting observations made by the constitutional bench of the Supreme Court in DS.Nakara & others/ Vs. Union of India (1983) 1 SCC 305. Finally, it allowed the OA., directing the respondent to extend the pension / pensionary benefits to the similarly placed person as that of this applicant.

4. In an identical matter in OA.No.298/2010 disposed of on 6.4.2011 (annexed as Annexure A6 to the OA), this bench directed the respondents to treat

the special pay as part of the pay for the purpose of fixation of their pension and pensionary benefits. In the said OA.No.1153/2002 disposed of on, 14.5.2003 directing to treat the special pay as part of the pay for the purpose of determination of pension. Similarly, in the identical matters the respondents have been directed to include the special pay as part of pay for the purpose of pension. Further, OA.No.184/2006 Hyderabad bench disposed of on, 29.3.2007 and granting reliefs. In some of the similarly placed Scientists G approached in OA.No.162/2008 disposed of Bangalore bench, wherein, similar orders have been passed, has been referred to in the said OA.

5. Again this Hon'ble bench in OA.No.287/2011 dated 13.2.2012 which is annexed as Annexure A13 to this OA, has followed the principles and allowed the OA., and further directed the respondents to take the case of all such other scientists in Grade 'G' and grant universally the benefits.

6. It is most pertinent to point out that this very bench in OA.No.1131/2014 dated 19.1.2016 which is annexed as Annexure A15 to this OA, has elaborately gone into the matter in detail and directed the respondents to treat the special pay as part of the pay for the purpose of fixation and finalization of pension and other pensionary benefits.

7. In view of the said decisions, which are required to be followed in this OA, to decide the matter as the decisions of the tribunal is similar to the relief claimed by the applicant. The said decisions rendered so far is

not reversed/alterd by the High Court or the Supreme Court.”

2. But, at the same time she would submit that the Hon'ble Apex Court while determining the matter have kept the question of law open. But, since she has no other question of law to oppose this the question of law which is explained by the applicant, we will allow the application to the effect that the pension will be finalised in accordance with the Nakara case of the Hon'ble Apex Court. While so it will be open for them to challenge the question of law left open by the Hon'ble Apex Court and in that case the benefit to be granted will be subject to such issue being raised within one year from the grant of the benefit to the applicant. This undertaking the applicant shall give and if, within one year such challenge is taken up the entirety of enhanced benefit will be subject to this in accordance with the new rule issued by the Hon'ble Apex Court following White washers case indicating that this will be operative as a assertive for recovery . OA is allowed to this extent. Process to be completed within next 2 months. No order as to costs.

(PK.PRADHAN)
MEMBER(A)

(DR. K.B. SURESH)
MEMBER(J)

bk.

Annexures referred to by the applicant in OA No. 170/00825/2016

Annexure-A1: Copy of letter dated 3.2.1999

Annexure-A2: Copy of letter dated 14.5.1999

Annexure-A3: Copy of letter dated 17.6.1999 from DRDO to all Establishments

Annexure-A4: Copy of the order dated 2.6.2016

Annexure-A5 : Copy of the Pension Payment order No.C/Misc/18185/2015 of the applicant

Annexure-A6 : Copy of the order dated 6.4.2011 in OA.298/2010

Annexure-A7 : Copy of the communication dated 13.5.2009

Annexure-A8 : Copy of the communication dated 13.5.2009

Annexure-A9 : Copy of the Letter dated 22.10.2009 from DRDO to PCDA (pension) Allahabad clarifying payment of pension.

Annexure-A10 : Copy of the order dated 6.1.2011 in OA.2509/2010 passed by CAT, Principal Bench

Annexure-A11 : Copy of the letter dated 29.3.2011 from 2nd respondent extending the benefits to the applicants in OA.2509/2010

Annexure-A12 : Copy of the letter dated 7.2.2011 issued by 2nd respondent

Annexure-A13 : Copy of the order dated 13.2.2012 in OA.287/2011 and 219/11, 220/11,221/11 and other cases.

Annexure-A14 : Copy of MA filed in OA.287/2011 dated 18.6.2012

Annexure-A15 : Copy of the order dated 19.1.2016 passed in OA.1131/2014.

Annexures referred to by the respondents in the Reply.

Annexure R-1: Copy of Chapter IV Emoluments and Average Emoluments

