

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

OA/021/00634/2016

Date of CAV : 24-08-2018
Date of Order : 17-09-2018

Between :

M.Dharmaraj, aged about 60 years,
S/o Late Sri Mayandi,
Deputy Labour Welfare Commissioner (C)(Retd),
R/o Qrt No.4/1, RLC Quarters ATI Campus,
Vidya Nagar, Hyderabad 500007.Applicant

AND

1. Union of India, Rep by the Secretary to Government of India,
Ministry of Labour and Employment, Shram Shakti Bhawan,
Rafi marg, New Delhi – 110001.
2. The Secretary to the Government of India,
Ministry of Defence, South Block, New Delhi-110001.
3. The Director, Defence Electronics Research Lab (DLRL),
Chandrayangutta Lines, Hyderabad - 500005.
4. The Controller of Defence Accounts (R&D),
Chandrayangutta Lines, Hyderabad - 500005.
5. Pr. Controller of Defence Accounts (Pension),
Drowpati Gardens, Allahabad, U.P. ...Respondents

Counsel for the Applicant: Mr. T. Koteswara Rao

Counsel for the Respondents : Mr. K.Venkateshwarlu, CGSC

CORAM :

THE HON'BLE MR.B.V.SUDHAKAR, ADMINISTRATIVE MEMBER
THE HON'BLE MR.SWARUP KUMAR MISHRA, JUDICIAL MEMBER

(Order per Hon'ble Mr.Swarup Kumar Mishra, Judicial Member)

(Order per Hon'ble Mr.Swarup Kumar Mishra, Judicial Member)

This application is filed for the following relief :-

“ (a) To call for the records with regard to the grant of benefits of Non-Functional Up-gradation to the Applicant in the pay band (PB:3) of Rs.15600-39100/- with Grade pay of Rs.6,600/- with effect from 01.04.2006 by the 1st Respondent Vide Office Order No.32 of 2015 (F.No.31011/03/2010-CLS-I), dated 01.12.2015.

(b)Declare the inaction on the part of the Respondents in releasing the benefits / payments of the petitioner on the pre-text that the grant of NFU to the applicant would be subject to the outcome of the W.P No.1508 of 2014 pending before the Hon'ble High Court of Judicature at Hyderabad for the State of Telangana & Andhra Pradesh as misconceived as such illegal and violative of article 14 & 21 of the Constitution of India.

(c) Direct the Respondents to release the payments to the applicant consequent to the granting of Non-Functional UP-gradation with effect from 01.04.2006 immediately with 12% interest from the date of sanction on 01.12.2015 to the actual date of payment

And pass such other and further order or orders as are deemed fit and proper by this Hon'ble Tribunal in the circumstances of the case.

2. It is the case of the applicant that he has filed OA No.286/2016 seeking for non-functional upgradation and the same was disposed of by this Tribunal on 23-03-2016. On the directions of this Tribunal, the Respondents have considered the applicant's case for NFU. Vide impugned orders dated 26-05-2018 and 20-06-2018, it is stated that the revision of pension will be under taken only after finalization of the WP No.1508/2014. Hence this application.

3. Respondents have filed reply statement stating that the Respondent No.1, the Cadre Controlling Authority to issue the addendum to the Office Order No.32/2015, dated 15-12-2015 stating that the grant of NFU to the

applicant is subject to the outcome of Writ Petition No.1508/2014 and prays for dismissal of the OA.

4. We have heard Mr.T.KoteswaraRao, learned counsel for the applicant and Mr.K.Venkateshwarlu, leaned Standing Counsel for Respondents, perused the material on record.

5. The Charge sheet filed against the delinquent applicant was withdrawn and direction was issued to release pension. Provisional pension has already been sanctioned in favour of the applicant but since WP No.1508/2014 is pending, the provisional pension has been withheld as seen from the impugned order at Annexure-I (page-6 to OA). Similarly as per letter dated 20.06.2016 (page-9 to OA), grant of Non Functional Up-gradation to the applicant with effect from 01.04.2006 has been kept pending by the Respondents, subject to the outcome of the Writ Petition in question. Earlier OA No.286/2016 was disposed of on 23-03-2016 directing the Respondents to consider the representation of the applicant for release of the benefits consequent to the grant of Non Functional upgradation.

6. We have carefully gone through the order passed in OA No.286/2016, dated 23-03-2016 and the impugned order. We are of the considered view that the subject matter in the pending Writ Petition is with regard to quashing of charges. Further, Writ Petition No.1508/2014 is not against order passed in OA No. 286/2016. It is clear that that the applicant is entitled for provisional pension as per order in OA No.281/2016 and the Respondents have also fixed the provisional pension to the applicant. In the absence of any order of stay on the fixation of provisional pension, the

Respondents ought not to have objected for revision of such provisional pension on the ground of pendency of WP No.1508/2014. Accordingly the impugned orders are liable to be quashed and the same are quashed and set aside directing the Respondents to revise the provisional pension of the applicant consequent to the NFU and pay the consequential arrears of provisional pension and all other monetary benefits within a period of three months from the date of receipt of a copy of this order.

7. O.A. is allowed accordingly. No order as to costs.

(SWARUP KUMAR MISHRA) (B.V.SUDHAKAR)	
JUDICIAL MEMBER	ADMINISTRATIVE MEMBER

Dated : 17th September, 2018.

vi