

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT SITTING : GWALIOR

Original Application No.202/00986/2018

Gwalior, this Tuesday, the 23rd day of October, 2018

HON'BLE MR. R. RAMANUJAM, ADMINISTRATIVE MEMBER
HON'BLE MR. RAMESH SINGH THAKUR, JUDICIAL MEMBER

Pramod Kumar Shrivastava, S/o Late Shri Ram Nath Shrivastava, Age 70 years, Occupation Retired Sr. Audit Officer, Resident of Flat-No.C-307, Bhau Saheb Potnis Enclave Behind M.I.T.S. Gole Ka Mandir, Gwalior 474005 M.P. **-Applicant**

(By Advocate – Shri S.C. Sharma)

V e r s u s

1. Union of India through Secretary, Department of Personnel and Training, North Block, Central Secretariat, New Delhi 110001.

2. Comptroller & Auditor General of India 9, Deen Dayal Upadhyaya Marg, New Delhi – 110124.

3. Principal Accountant General (GSSA), Audit Bhawan, Gwalior – 474002 **- Respondents**

(By Advocate – Shri J.P. Saxena)

O R D E R (O R A L)

By R. Ramanujam, AM.

Heard. The applicant has filed this Original Application seeking the following reliefs:

“8.1 The orders passed by the Respondents Nos.2 and 3 in Annexure A/8, enclosure to Annexure A/10 containing letter dated 8.1.2014 and Annexure A/14 may kindly be quashed and set aside.

8.2 This O.A may kindly be allowed and Respondents may please be directed to revise/recalculate the D.C.R.G., Leave encashment Etc. of the applicant taking into account the DA @ 12 percent instead of 9 percent as on 1.1.2008 and to pay the difference amount of D.C.R.G., Leave encashment Etc. to the applicant.

8.3 The Respondents may also please be directed to pay interest @ 9 percent on the amount of arrears of D.C.R.G., Leave encashment and other retiral benefits to the applicant from 1.1.2008, as has been ordered by the Hon'ble High Court of Gujurat, Ahmedabad in the case of Shri H.G. Mandani, till the date of payment of arrears.

8.4 Cost of 10000/00 may be awarded.

8.5 Any other relief which this Hon'ble Tribunal may deem necessary in the interest of justice may also be awarded.”

3. The applicant is aggrieved by Annexure A-14 order dated 20.09.2017 of the third respondent by which his representation for revising the commutation of his DCRG taking into account DA @ 12% instead of 9% w.e.f. 01.01.2008 had been rejected despite his drawing attention of the authorities to the orders of Hyderabad Bench of this Tribunal in an allegedly similar OA No.797/2002 filed by C. Subbarao and another allegedly similar case in W.P No.18098/2005, decided by the Hon'ble High Court of Gujarat in favour of the applicant in OA No.544/2004 before the Ahmedabad Bench of this Tribunal.

4. We have perused the impugned order passed by the third respondent. It is noted that the third respondent has held that DA at the enhanced rate of 12% w.e.f. 01.01.2008 was not admissible to the applicant solely on the ground that although the SLP in respect of one B. Chandrasekhara Rao & Ors. was dismissed by the Hon'ble Apex Court *in limine*, the question of law was left open. There is no indication in the impugned order that the facts of the applicant's case were distinguished from those of the said Shri C. Subbarao and Shri B. Chandrasekhara Rao & Ors. referred to therein. If orders in similar cases have been implemented, the applicant could not be discriminated against only for the reason that he was not a party therein. Further, when the question of law is left open by the Hon'ble Apex Court, it is not possible for this Tribunal to revisit the question of law and it can only be decided by the Hon'ble Apex Court in another appropriate case. Accordingly, we see no purpose in issuing a notice to the respondents to seek their reply to the O.A.

5. In view of the above, the impugned Annexure A-14 order dated 20.09.2017 is quashed and set aside. The respondents are directed to extend the benefit of the ratio of the order of the Hyderabad Bench of this Tribunal as well as that of the Hon'ble

Gujarat High Court to the applicant unless the facts of his case could be distinguished, and pass a reasoned and speaking order, within a period of two months from the date of receipt of a certified copy of this order.

6. The O.A is disposed of at the admission stage. No costs.

(Ramesh Singh Thakur)
Judicial Member

(R. Ramanujam)
Administrative Member

am/-