

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.260/803/2015

Date of Reserve:01.03.2019

Date of Order: 27.03.2019

CORAM:

HON'BLE MR.SWARUP KUMAR MISHRA, MEMBER(J)

Pranabananda Dash, aged about 64 years, S/o. late Lingaraj Dash, presently residing at Ghantikia, Bhubaneswar, Dist-Khurda-751 003.

...Applicant

By the Advocate(s)-M/s.D.P.Dhalasamant
N.M.Rout

-VERSUS-

Union of India represented through:

1. The Director General of Posts, Govt. of India, Ministry of Communication, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi-110 001.
2. Chief Post Master General, Orissa Circle, Bhubaneswar, Dist-Khurda-751 001.
3. Director of Accounts (Postal), Mahanadi Vihar, Cuttack-753 004.
4. Senior Superintendent of Post Offices, Bhubaneswar Division, Dist-Khurda-753 001.
5. Senior Postmaster, Bhubaneswar G.P.O.

...Respondents

By the Advocate(s)-M.J.K.Nayak

ORDER

PER SWARUP KUMAR MISHRA, MEMBER(J):

Applicant is a retired employee under the Department of Posts. In this Original Application under Section 19 of the A.T.Act, 1985, he has approached this Tribunal praying for the following reliefs:

- i) That the order dated 22.01.2015(A/8) & 28.05.2015(A/11) be quashed.
- ii) That the respondents be directed to grant disability pension to the applicant w.e.f. 1.12.2010 with interest or in alternate an amount of Rs.1,83,823/- as lump sum compensation

towards the capitalized value of disability pension in lieu of disability pension be paid to the applicant.

- iii) And further be pleased to pass any order/order(s) as deemed fit and proper to give complete relief to the applicant.

2. Brief background leading to filing of this O.A. is that the applicant while working as Postal Assistant in Suryanagar NDTSO, Bhubaneswar met a parcel bomb explosion on 3.1.2002 and sustained injury with 75% disability thus making his left leg below the knee non-functioning. However, after his recovery, he was allowed to continue in service till his retirement on superannuation on 30.11.2010 and consequently, he was granted pension with effect from 01.12.2010. He submitted a representation to the authorities for grant of Disability Pension and since, he could not be favoured with a decision, he approached this Tribunal in O.A.No.836/2014. This Tribunal disposed of the said O.A. vide order dated 24.11.2014 with a direction to the Chief Post Master General, Odisha Circle (Res.No.2) to consider and dispose of the representation dated 4.12.2013 through a reasoned and speaking order to be communicated to the applicant within a stipulated time frame. Complying with the aforesaid direction, Respondent No.2 passed an order dated 22.01.2015 (A/8), the relevant part of which reads as follows:

"In accordance with the direction of the Hon'ble Tribunal the representation dated 04.12.2013 of Shri Pranabananda Dash, Ex-PA, Bhubaneswar GPO is considered. The Applicant in his representation dated 04.12.2013 has requested to issue necessary instructions to DA(P), Cuttack and SSPOs, Bhubaneswar to settle his Disability Pension at the earliest. In the light of the instructions contained in DoPW(F) O.M.No.45/22/97-P&PW© dated 03.02.2000, No.45/3/2008-P&PW(F) dated 18.11.2008 and No.33/5/2009-P&PW(F) dated 10.12.2010, the case is examined and it is found that Disability Pension is admissible only on discharge of the Govt. Servant from Service owing to Disability. The Applicant has not been discharged from Govt. Service prematurely prior to his normal retirement due to the disability. Despite disability he continued in his service, attained the age of superannuation and retired with superannuation pension. He has

not sustained any loss in his normal Superannuation Pension due to the disability which is required to be compensated in shape of Disability Pension. So the claim of the Applicant for Disability Pension after sanction of superannuation is not tenable”.

3. While the matter stood as such, Respondent No.4, i.e., Senior Superintendent of Post Offices, Bhubaneswar Division vide his letter dated 30.01.2015(A/10) addressed to the Senior Accounts Officer (Pension), Office of the Director of Accounts (Postal), Cuttack (Res.No.3) accorded sanction of Rs.1,83,823.20 towards capitalized value of disability pension in lieu of Disability Pension Superintendent of Post Offices and sought necessary authority for payment at Bhubaneswar GPO. For the sake of clarity, the relevant portion of the letter dated 30.01.2015 reads as under.

“...That the Appointing Authority is delegated powers to sanction Award under the relevant Extraordinary Pension rules.

In view of admissibility

- (i) Whereas the Ex-official sustained an injury due to an accident while on duty which made him permanently disabled.
- (ii) Whereas the permanent disability was assessed by the Medical Board as 75%.
- (iii) Whereas the Ex-official has been retained in Service with less arduous nature of duties:

The Appointing Authority, i.e., the Head of the Division conceded that the disablement is due to Government Service and has decided to grant an award under the said rules in terms of Rule-3-A of CCS(Extraordinary) Pension Rules, 1939.

Accordingly, the Ex-official is eligible to be granted Lumpsum compensation equal to the capitalized value of disability pension in lieu of Disability Pension amounting to Rs.183823 (Rs.One Lakh eightythree thousand eight hundred twentythree) only.

Necessary Authority may kindly be issued for payment at Bhubaneswar GPO”.

4. In response to this, the Senior Accounts Officer(Pension), in the Office of Respondent No.3 communicated a letter dated 28.05.2015(A/11) to the Respondent No.4, which reads as follows:

“Kindly refer to your aforementioned letter forwarding therewith claim application of Shri Pranabananda Dash for authorisation of capitalised value of Disability pension.

In this connection, it is stated that although Rule-9 of CCS(Extraordinary Pension) Rules, provides that if a Govt. servant is retained in service in spite of disablement, he shall be paid a compensation in lump sum in lieu of Disability pension, Rule-6(i) of the said Rules provides that no award shall be made in respect of an injury sustained more than five years before the date of application. Moreover, Rule-4 of the said Rules, prior to its amendment on 15.02.2011 published as S.O.410(E) in the Gazette of India dated 15.02.2011, provides that no award shall be made under these rules except with the sanction of the President.

Shri Pranabananda Dash sustained an injury on 03.01.2002 and he was retired in Govt. service till his retirement on superannuation on 30.11.2010. He preferred his claim for lumpsum award in his representation dated 27.01.2015, i.e., after a period of 13 years.

As the claim is neither fulfilling the provisions of CCS(Extraordinary Pension) Rules nor the sanction for such award issued by your office is in order, the application of the claimant is returned herewith”.

5. Aggrieved with the order dated 22.01.2015(A/8) passed by Respondent No.2 and the order dated 28.05.2015(A/11) passed by the office of respondent no.3, the applicant has approached this Tribunal seeking for the reliefs as mentioned above.

6. Heard the learned counsels for both the sides and perused the pleadings of the parties. During the course of hearing learned counsel for the applicant drew the attention of this Tribunal to an instruction issued by the Ministry of Finance, Government of India vide OM No.F.19(18-E.V(A)/66 dated 20.02.1966, the relevant part of which reads as under:

“(2) Appointing Authorities competent to sanction awards in clear cases and where there is no disagreement – It has been decided to

delegate powers to Appointing Authorities to sanction awards under the relevant Extraordinary Pension Rules in those cases in which the proposed pension or gratuity is held to be clear admissible under Rules, i.e., where there is no disagreement between the Accounts Officer and the Appointing Authority as regards the admissibility of the awards or the amount admissible”.

In cases where the President is the Appointing Authority, the powers already delegated will continue to be exercised by the Administrative Ministries and the Comptroller and Auditor-General.

Cases which are not clearly covered by the Rules or where there is disagreement between the various authorities mentioned above, or wherein award is proposed to be granted on ex gratia basis, should, however, continue to be referred to the Ministry of Finance as usual”.

7. This Tribunal considered the rival submissions in the light of the instructions on the subject. In this connection, it is to be noted that the order passed by Respondent No.2, i.e., CPMG, Odisha Circle dated 22.01.2015 is in relation to Disability Pension, which according to him, is not admissible since the applicant had not been discharged from the Government service prematurely prior to his normal retirement due to disability and as the applicant has not sustained any loss in his normal superannuation pension due to the disability which is required to be compensated in shape of Disability Pension. The applicant in this O.A. has however, sought for an alternate relief, i.e., to direct the respondents to grant him the capitalized value of disability pension in lieu of disability pension to the tune of Rs.1,83,823/-. In view of this, in my considered opinion, the order dated 22.01.2015 passed by the CPMG will not stand in the way for considering the to the alternative relief as prayed for by the applicant. Therefore, the Tribunal confines its consideration to the lump sum compensation equal to the capitalized value of disability pension in lieu of disability pension as

sanctioned by the SSPOs, Bhubaneswar vide A/10 dated 30.01.2015. Perusal of A/10 and A/11 issued by the Appointing Authority and the Senior Accounts Officer(Pension) respectively makes it amply clear that there has been no disagreement between them with regard to entitlement of compensation in lump sum in lieu of disability pension in favour of the applicant. Therefore, the instructions contained in Finance Ministry's OM dated 20.02.1966 cited supra, in my considered opinion, satisfies the conditions stipulated therein. The point on which Senior Accounts Officer(Pension) has raised an objection is regarding submission of claim for lump sum award after about a period of 13 years of the date of accident. On being pointed out, learned counsel for the applicant craved liberty of this Tribunal to submit a representation to the Respondent No.4 and accordingly, prayed for direction to be issued to the said Respondent No.4 to consider and dispose of the same in accordance with rules/instructions governing the subject.

8. Having regard to the above, liberty is granted to the applicant to make a detailed representation to Respondent No.4 within a period of two weeks hence and accordingly, Respondent No.4 is directed to consider and pass an appropriate orders within a period of thirty days from the date of receipt of such representation.

9. With the above observation and direction, this O.A. is disposed of, with no order as to costs.

(SWARUP KUMAR MISHRA)
MEMBER(J)

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