

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 040/00045/2018

Date of Order: 06.03.2019

**THE HON'BLE MRS. MANJULA DAS, JUDICIAL MEMBER
THE HON'BLE MR. NEKKHOMANG NEIHSIAL, ADMINISTRATIVE MEMBER**

Shri Sudhindra Chandra Barua, IAS (Retd)
Son of Late Prafulla Chandra Barua
Resident of House No. 47, Narikolbasti Road
Guwahati – 781024, Kamrup (M), Assam.

...Applicant

By Advocates: Mrs. R.S. Choudhury & Mr. M.P. Hazarika

-Versus-

1. The Union of India
Represented by the Secretary
Ministry of Personnel
Public Grievances and Pensions
(Department of Personnel and Training)
Government of India, North Block
Central Secretariat, New Delhi – 110001.
2. The Accountant General
Office of the Accountant General (A&E)
Assam, Maidamgaon, Beltola, Guwahati – 781029.
3. The Joint Secretary
Department of Personnel (A)
Government of Assam
Assam Secretariat (Civil)
Dispur, Guwahati – 781006.

...Respondents

By Advocate: Mr. A.K. Choudhury, Jr. Advocate, Assam
Mr. G. Baishya, advocate for AG

ORDER (ORAL)

MANJULA DAS, MEMBER (J):

Being aggrieved for non-fixation of his pension, the applicant has approached this Tribunal by filing the instant O.A. seeking the following reliefs:

“8.(i) To direct the Respondent Authorities to refix the pensionary benefit of the Applicant pursuant to his superannuation as per the 3rd amendment to the Indian Administrative Services (Pay) Rule, 1954 with effect from 09.05.1994.

- ii. To direct the Respondent Authorities to provide the Government of India's letter No. 20015/1/2000-AIS (II) dated 24.07.2000 which is of crucial importance in determining the pension of the Applicant.
- iii. To refix the pension of the Applicant at the rate of Rs. 7,550/- per month, as has been done in the case of his Juniors as well and after such refixation the Respondent Authorities may be further directed to grant him the arrears to which he is entitled to.
- iv. Costs of application and also compensation for depriving the Applicant of his legitimate claim for such a long period of time.
- v. Any other reliefs to which the applicant is entitled to, under the facts and circumstances of the case as may be deemed fit and proper by the Hon'ble Tribunal.”

2. Heard Mrs. R.S. Choudhury, learned counsel for the applicant, Mr. A.K. Choudhury, Jr. Govt. Advocate, Assam and Mr. G. Baishya, learned counsel for AG.

3. The learned counsel for the applicant submitted that applicant was appointed to the rank of an I.A.S. on probation w.e.f.

26.05.1982 to the Joint Cadre of Assam-Meghalaya retrospectively vide order dated 04.11.1987. Subsequently, he was posted to the I.A.S. on regular basis w.e.f. 10.09.1982. Following the same from 01.07.1987, the applicant was appointed to the Junior Administrative Grade of I.A.S. retrospectively vide order dated 12.03.2001 and his pay was fixed at Rs. 4,850/- in the scale of Rs. 3,950-5000/-. The Applicant retired from service on 30.10.1989 as secretary to the Government of Assam, Fisheries Department.

4. Written statement has been filed by the respondent No. 2 today. The learned counsel for the respondents submitted that the fixation of pay of Sri. P.C. Sarma, IAS (Retd) was done correctly by reducing his pension at Rs. 17063 instead of Rs. 24195/- w.e.f. 01.01.2006. Hence the applicant is not entitled to get the benefits of Rs. 5700/-.

5. We have noted from the para 11 of the written statement filed by the respondent No. 2 which reads as hereunder:-

"After implementation of 6th Central Pay Commission, it was noticed that Shri P.C. Sarma, IAS (Retd) was authorised pension in the Selection Grade of IAS of Rs. 7550/- which is not in conformity with the Government of India Order dated 14-08-1997 and order dated 24-07-2000 (R1 to the written statement). Hence the benefit of corresponding Pay Band-4 of Rs. 37400-67000 plus Grade Pay of Rs. 8700/- as admissible under 6th Central Pay Commission was held back by this office. Accordingly, his pension was revised at Rs. 17063/- instead of Rs. 24195/- with effect from 01-01-2006 in terms of Government of India OM No. 35/37/08-P&PN (A) dated 01-09-2008. In the meantime, the matter has been taken up with the Government, vide this office

letter dated 19-03-2008, for their views on the subject. The reply from the Government is awaited."

6. The learned counsel for the applicant by relying Annexure-A15(3) submitted that the applicant has been drawing his pension at Rs. 15660/- w.e.f. 01.01.2006 whereas junior incumbent Sri P.C. Sarma was drawing Rs. 17063/- w.e.f. 01.01.2006 as corrected by the respondents i.e. Accountant General. Despite thefact that the applicant is senior to the said Sri P.C. Sarma. Accordingly, limited prayer remains for the applicant is to give amount which has been paid to the junior incumbent namely Sri P.C. Sarma, IAS at Rs. 17063/- w.e.f. 01.01.2006. The applicant will be satisfied if the same is done in his case by re-fixing the pension amount.

7. Comparing to this, it is felt that the applicant is senior to the said Sri P.C. Sarma, IAS (Retd) inasmuch applicant's induction to IAS was 26.05.1982 whereas other incumbent namely Sri P.C. Sarma is 10.09.1982. As such, whatever pension has been fixed is not done properly and correctly.

8. In view of the above, by exploring the written statement as well as pleadings made by the learned counsel more particularly Annexure-A15, it would be deemed fit and proper to direct the respondent authorities more particularly respondent No. 2 to correct the pension amount of the applicant by fixing at Rs. 17063/- w.e.f. 01.01.2006 as has been made in case of junior retired officer namely

Sri P.C. Sarma, IAS (Retd) within a period of one month from the date of receipt copy of this order. Ordered accordingly. Needless to mention that arrears amount w.e.f. 01.01.2006 to be paid by the respondent to the applicant, who is now aged about 90 years old, at earliest but not later than one month.

9. O.A. stands disposed of accordingly. No order as to costs.

10. As directed by this Tribunal vide order dated 24.01.2019, following officers appeared personally, on behalf of respondent Nos. 2 & 3, to assist the court:-

- (i) Shri Nityananda Boro, Dy. Secretary, Personnel (A) Department, Govt. of Assam (Respondent No.3)
- (ii) Shri Budheswar Pegu, Superintendent, Personnel (A) Department, Govt. of Assam (Respondent No. 3)
- (iii) Shri Pranab Kavjee, Jr. Administrative Assistant, Personnel (A) Department, Govt. of Assam (Respondent No. 3)
- (iv) Shri Bikash Saha, Sr. Accountant, Office of the Accountant General, Assam, Maidamgaon (Respondent No. 2)
- (v) Gautam Mazumdar, AAO Office of the Accountant General, Assam, Maidamgaon (Respondent No. 2)

11. Accordingly, their personal appearance stands dispensed with.

(NEKKHOMANG NEIHSIAL)
MEMBER (A)

(MANJULA DAS)
MEMBER (J)