

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

O.A. No. 021/0878/2017

Date of order : 31.12.2018

Between:

G VENKATAPATHI RAJU,
S/o. Late Venkata Raju,
Aged 79 years,
Occupation: Retd. Superintendent of Central Excise,
R/o Plot No.102, Road No.12,
Vivekananda Nagar Colony,
H.No.3-6-56/9, Kukatpally,
Hyderabad 500 072.

Applicant

A N D

Union of India rep. by:

1. The Commissioner, Customs, Central Excise & S.T.,
Hyderabad-I Commissionerate, L.B.Stadium Road,
Basheer Bagh, Hyderabad-500004,
2. The Chief Commissioner of Customs, Central Excise & S.T.,
Shulk Bhavan, Basheer Bagh, Hyderabad-500004,
3. The Chairman,
Central Board of Customs, Central Excise and ST,
5th Floor, HUDCO Visala Building,
Bhikaji Cama Place,
New Delhi-110066,
4. The Secretary to Government of India,
Ministry of P, PG & P.,
Department of Pensions and Pensioners' Welfare,
Lok Nayak Bhavan, Khan Market,
New Delhi 110 003.

... Respondents

Counsel for the applicant : Mr. E.Krishna Swamy
Counsel for the respondents : Mrs. K.Rajitha, Sr.CGSC

C O R A M :

THE HON'BLE MR .JUSTICE L NARASIMHA REDDY, CHAIRMAN
THE HON'BLE MR. B.V.SUDHAKAR, MEMBER (A)

ORAL ORDER

(Per Hon'ble Mr. Justice L Narasimha Reddy, Chairman)

The applicant retired as Superintendent in the Customs and Central Excise Department on 31.8.1985. Based on the recommendations of the 6th Pay Commission as regards pension of the retired employees, his pension was fixed at Rs.8637/-. He filed OA 325/2017 stating that he is entitled to be paid pension @ Rs.9375/- per month. The OA was disposed of on 21.04.2017 directing Respondent No.1 therein to consider the representation already submitted by the applicant and to pass orders. In compliance with the same, Respondent No.1 passed speaking order dated 31.08.2017. It was mentioned that the fixation of pension at Rs.8637/- itself was in compliance with the recommendation of the 6th Pay Commission and the other Government orders and the request of the applicant for refixation of pension at Rs.9375/- cannot be acceded to. In his representation, the applicant made reference to an order in OA 1173/2015 filed by Mr.G. Ranga Rao, Superintendent (Retired). With reference to that, Respondent No.1 observed that W.P.No.9779/17 was filed against the Order in OA 1173/15 and that it is not possible for them to extend the request for revision of pension.

2. The order dated 31.08.2017 is challenged in this OA. Various contentions are alleged in support of the claim. Reliance is placed on the judgment in ***Ram Phal vs. Union of India and others in WP(C) 3035/16***, and certain other judgments.

3. Respondents filed counter affidavit opposing the OA. It is stated inter alia that the order passed by the Tribunal in OA 1173/2015 was set aside by the High Court at Hyderabad in W.P.No.9779/2017 and in that view of the matter, there is no basis to challenge the impugned order.

4. We heard Mr. E.Krishna Swamy, learned counsel for the applicant and Mrs. K.Rajitha, learned senior standing counsel for the respondents at length.

5. The applicant retired long back and his pension was fixed in accordance with the provisions of law that were applicable at the relevant point of time. The 6th Pay Commission made its recommendations regarding enhancement of the pension of retired employees. Office Memorandum dated 1.9.2008 was issued accepting the said recommendations. It is to the effect that the pension of the retired employees shall be revised and in no case, it shall be lower than 50% of the minimum of pay in the pay band and the grade pay, corresponding to pre-revised pay scale. It is in this context, that the pension of the applicant was fixed at Rs.8637/-. This is 50% of the minimum pay in the pay band and the grade pay corresponding to the pre-revised pay scale from which the applicant retired.

5. Placing certain interpretation on the various proceedings, the applicant made representation to the Pension Adalat stating that he is entitled to the pension of Rs.9375/- with effect from 1.1.2006. He relied upon the order passed by this Tribunal in OA 1173/2015. Respondent No.1 in turn took a view that the directions issued in the said OA is not

accepted as W.P.No. 9779/17 is pending. This is the gist of the impugned order.

7. W.P.No.9779/17, together with other WPs viz., 9770 and 9844 of 2017 were pending before the High Court, by the time the present OA was filed. On 5.12.2017, the said batch of W.Ps were allowed by the High Court and the order in the respective OAs was set aside. Same result must ensure in this OA also.

8. Reliance is placed upon the judgment of the Delhi High Court in ***Ram Phal vs. Union of India and others in WP(C) 3035/16***. Even this was taken note of by the High Court at Hyderabad and it was mentioned that the subject matter of that judgment was totally different. From the judgment in ***Ram Phal's*** case (supra), we find that the grievance of the petitioner therein was the very refusal to extend the benefits of revision of pension under VI CPC on the ground that he is a pre-2006 pensioner. That is not the situation here. The applicant was extended the benefit of revision of pension.

9. We, therefore, do not find any merit in the OA and it is accordingly dismissed. There shall be no order as costs.

(B.V.SUDHAKAR)
MEMBER (A)

(JUSTICE L NARASIMHA REDDY)
CHAIRMAN