

**Central Administrative Tribunal
Principal Bench, New Delhi**

OA No. 4493/2015

New Delhi this the day of 23rd day of May, 2019

Hon'ble Sh. Pradeep Kumar, Member (A)

Dr. Bhushan Lal Dhar
S/o Late P.N. Dhar
R/o C-702, UNESCO Apartments
55-I.P. Extension
Patpar Ganj
Delhi 110 092

... Applicant

(Applicant in person)

Versus

The U.O.I. through

1. The Secretary to Govt. of India,
Ministry of Environment & Forests (and Chairman,
Board of Governors, Indian Council of Forestry
Research & Education)
Paryavaran Bhawan
CGO Complex, Lodhi Road
New Delhi 110 003.
2. Director General
Indian Council of Forestry
Research & Education
P.O. New Forest
Dehradun
(Uttarakhand)
3. Director
Forest Research Institute
P.O. New Forest
Dehradun 248 006
Uttarakhand).

...Respondents

(By Advocate : Sh. Sanjay Katyal-R-3
Sh. Rajesh Katyal-R-2
Sh. Gyanendra Singh -R-1)

ORDER (ORAL)

The applicant had joined as a Group A Scientist in Forest Research Institute and Colleges, Dehradun which is a Central Govt organization. Subsequently, it was converted into Indian Council of Forestry Research and Education (ICFRE) at Dehradun. The ICFRE Institute was converted into an autonomous body in the year 1991. Subsequently, this autonomous body issued directions on 05.09.1995 to grant two additional increments to those erstwhile Central Govt. officers who were continuing to work in the autonomous body. The applicant was also granted these two additional increments. In due course, the applicant had retired from service on 31st May, 2000 and his pension was fixed accordingly taking these two increments into account.

2.0. Subsequently, one similarly placed person Sh.V K Jain, who retired from the same Institute, claimed that while re-fixing the pension as per 6th CPC, the pension is required to be fixed based upon basic pay and the two additional increments are required to be credited thereafter. This plea was not agreed. Sh. V K Jain felt aggrieved and filed the OA No. 1552/2010. This OA was dismissed vide order dated 09th November, 2011. Sh. V K Jain approached the Hon'ble High Court of Delhi vide WP No. 1122/2012 wherein this WP was dismissed vide order dated

27.2.2012. Subsequently, the matter was agitated in Hon'ble Apex Court vide SLP No. 18287/2012 wherein the same was dismissed vide order dated 20.08.2014.

It was subsequent to this adjudication that the applicant had filed the instant OA seeking the same reliefs.

3.0. The applicant had pleaded that the Hon'ble Apex Court had now given certain directions in Civil Appeal No. 10640-46 of 2013 (**K C Bajaj and others**) dated 27.11.2013 in regard to Non Practicing Allowance (NPA) for doctors. The operative para reads as under :-

"33. In the result, the appeals are allowed, the impugned order of the High Court as also the one passed by the Tribunal are set aside and the applications filed by the appellants before the Tribunal are allowed in terms of the prayer made. The respondents shall re-calculate the pension payable to the applicants by adding the element of NPA. This exercise shall be undertaken and completed by the concerned authorities within a period of three months from today."

On the same reasoning, the applicant pleaded that the two additional increments granted to him should be treated at par with NPA for revising the pension as per 6th CPC.

4.0. The respondents opposed the OA. It was pleaded that the two additional increments were sanctioned in the year 1995 and the applicant admitted that the same were granted to him and were taken into account while fixing his pension at the time of his retirement on 31.05.2000. He has been comfortable with this

position all these years. Accordingly, raising of the issue at this stage is barred by limitation.

5.0. The respondents also pleaded that similarly placed candidate namely Sh. V.K. Jain had agitated the same issue before this Tribunal, Hon'ble High Court of Delhi and Hon'ble Apex Court where the petitioner did not succeed. In view of the foregoing adjudication on merits of the issue, it was pleaded that the instant OA is also required to be dismissed.

6.0. Matter has been heard at length. Dr. Bhushan Lal Dhar represented in person and Sh. Sanjay Katyal, learned counsel represented the respondents.

7.0. The pension fixation as per 6th CPC has been done as per DOP&PW OM Dt. 1.9.2008. The formula given therein is with respect to earlier pension and the conversion table given therein, and this is required to be followed for revising the pension in respect of all including the applicant. This has been followed. There is no reason to follow a different procedure.

8.0. The applicant had also relied upon the judgment of Hon'ble Apex Court in Civil Appeal No. 10640-46 of 2013 (**K C Bajaj and others**) dated 27.11.2013 wherein NPA has been given, which is as under :

“the Hon'ble High Court observed that the NPA counts as pay for all service benefits including retirement benefits directed the Govt. to regulate the pension payable to the applicants (i.e. Pre-96 retirees) Medical officers by adding the element

of Review Petition filed by the Govt. against the above judgment was also dismissed by the Hon'ble Supreme Court on 31.07.2013."

9.0. This Tribunal observes that NPA is in the context of medical practitioners and the same cannot be compared with additional increments granted to applicant. The context and reasoning for grant of NPA and the additional increments is entirely different and no ratio can be drawn from this judgment. Moreover, this judgment is of 2013 i.e. older to the apex court judgment delivered in 2014 in the case of Shri V K Jain on the issue at hand. This judgment for NPA is, thus, not of any help to the applicant.

10. In view of the foregoing, the pleadings by the applicant are not finding acceptability. Accordingly, the OA is dismissed being devoid of merits. No costs.

(Pradeep Kumar)
Member (A)