

**Central Administrative Tribunal
Principal Bench**

OA No.4654/2015

New Delhi, this the 6th day of February, 2019

**Hon'ble Sh. Justice L. Narasimha Reddy, Chairman
Hon'ble Sh. Mohd. Jamshed, Member (A)**

Arvind Kumar Raizada,
Retd. Assistant Director (Tech.),
S/o Late A.R. Raizada,
R/o Flat No.7; T-Market,
Shriniwaspuri,
New Delhi-110065.

...Applicant

(By Advocate : Shri Padma Kumar S.)

Versus

1. Union of India,
Through the Secretary (Textiles);
Ministry of Textiles,
Udyog Bhawan,
New Delhi-110 011.
2. The Development Commissioner (Handicrafts),
Ministry of Textiles,
West Block 7,
R.K. Puram,
New Delhi-110 066.

...Respondents

(By Advocate : Shri S.M. Zulfiqar Alam)

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman :-

The applicant retired from the service as Assistant Director, Ministry of Textiles, on 31.01.2015. Through an order dated 06.05.2015, the office of the 2nd respondent

re-fixed the pay of the applicant from the year 2001 onwards. In effect, the respondents have found fault with the extension of benefit of 2nd ACP to the applicant and thereafter re-worked the pay structure. The same is challenged in this OA.

2. The applicant contends that at no point of time, he has mis-represented to the authorities with a view to draw any benefit and that when the ACP was extended to him by the respondents on being satisfied, there is absolutely no justification for issuing the impugned order. It is also stated that the respondents did not issue the notice to him before it was passed.

3. Respondents filed counter affidavit opposing the OA. It is stated that in the course of the verification of the service record for the purpose of working out of the pension, it came to light that the benefit of 2nd ACP was extended to the applicant contrary to the rules and accordingly, the impugned order was passed. Various contentions alleged by the applicant are denied.

4. We heard Shri Padma Kumar S., learned counsel for applicant and Shri S.M. Zulfiqar Alam, learned counsel for respondents.

5. As observed earlier, the applicant retired from service on 31.01.2015. Four months thereafter, the impugned order was issued re-fixing his entire pay structure, that too, w.e.f. 01.11.2011. Assuming that there exists any defect or mistake in fixing the salary of the applicant or extending the benefit of ACP, the respondents were under obligation to issue notice to the applicant before any order, adverse to his interest, was passed. However, the impugned order was passed straightway, without making any effort to ascertain the facts from the applicant. On the face of it, the impugned order is violative of the principles of natural justice and it cannot be sustained in law.

6. On this short ground, the OA is allowed and the impugned order is set aside. However, it is left open to the respondents to issue notice to the applicant and pass appropriate orders, in accordance with law.

There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L.Narasimha Reddy)
Chairman

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