

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH:
NEW DELHI**

O.A. NO.2919 of 2016

This the 21st day of August 2019

Hon'ble Ms. Nita Chowdhury, Member (A)

S.L. Srivastava, Retd. Addl. CPFC,
Aged about 68 years,
S/o Late Sh. Sunder Lal Srivastava,
R/o 1201, Sec-28, Faridabad,
Haryana.

....Applicant

(By Advocate : Shri M.K. Bhardwaj)

VERSUS

1. Union of India & Ors.
Through its Secretary,
Govt. of India,
Ministry of Labour & Employment/Shram aur Rozgar
Mantralaya,
New Delhi.
2. Central Provident Fund Commissioner,
EPFO,
14, Bhikaji Cama Place,
Bhavishya Nidhi Bhawan,
New Delhi-110066.

.....Respondents

(By Advocates : Shri Keshav Mohan, Avinash Ankit and Shri
Rjive R. Ra.)

O R D E R (Oral)

By filing this OA, the applicant is seeking the following
reliefs:-

- “(i) To declare the action of respondents in not fixing
and calculating pension and other pensionary
benefits of the applicant as per the pay drawn
upto 09.06.2011 and withholding gratuity,
commutated value of pension as illegal and

arbitrary and issue appropriate directions to fix and calculate pension and other pensionary benefits as per last pay drawn i.e. 09.06.2011 and release the excess amount as well as gratuity and commuted value of pension with 12% interest.

- (ii) To direct the respondents to release arrears of pay from 01.09.200 till 09.06.2011 on account of grant of Non Functional Selection Grade in PB-4 and 9 days salary (01.06.2011 to 09.06.2011) with interest at GPF rates.
- (iii) to allow the OA with cost.
- (iv) pass any further orders as this Hon'ble Tribunal may deemed fit and proper in the facts and circumstances of the case."

2. In this case on 17.07.2019, this Tribunal passed the following orders:-

"On 24.02.2019, learned counsel for the respondents submitted that the prayer made in the OA is the same as made by the applicant in SLP filed in Hon'ble Supreme Court. He submitted that in the circumstances this OA is no longer maintainable before this Tribunal and same should be dismissed. Learned counsel for the applicant sought time to seek instructions in this matter.

On 16.05.2019, again learned counsel for the applicant prayed for time to seek instructions in the matter. On 10.07.2019, again adjournment sought by the learned counsel for the applicant. Mr Shubham Gairola, proxy counsel for Mr M K Bhardwaj, learned counsel for the applicant informs that the same counsel appears even in the SLP. In view of this, for clarification proxy/counsel for applicant should be in a position to respond whether the subject matter in the SLP is the same as in this OA.

Adjournment is granted for the last time for clarification of this issue.

List on 21.08.2019."

3. Today when this matter is taken up for consideration, counsel for the applicant accepted that the applicant has filed SLP (Civil Appeal No.385/2012 in this matter before the Hon'ble Supreme Court and the same is pending for adjudication. Counsel also averred that the respondents have released the Leave Encashment and provisional pension to the applicant by taking note of the pay drawn by him as on 31.08.2008 as the applicant was retired from service retrospectively, i.e., from 31.8.2008 consequent upon the Order of the Hon'ble Punjab and Haryana High Court dated 14.1.2011 in CWP No.10686/09.

4. Counsel for the respondents submitted that the respondents in view of above circumstances cannot give any pensionary benefits for any period beyond 31.8.2008 as the applicant was declared to have retired from service by the Hon'ble Punjab and Haryana High Court vide Order dated 14.1.2011 in CWP No.10686/09.

5. Hence, in view of the peculiar facts and circumstances of this case, no order can be given as per the prayer of the applicant to calculate his pensionary benefits for any period beyond the date, i.e., 31.8.2008, which is the date of retirement as per the decision of the Hon'ble High Court of Punjab and Haryana High Court in CWP No.10686/09. Hence, the present OA is dismissed as without merit.

6. However, leave is given to the applicant to pursue this

matter, if he is so advised, in accordance with law after the final decision of the Hon'ble Supreme Court in the said Civil Appeal No. 385/2012. There shall be no order as to costs.

(Nita Chowdhury)
Member (A)

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