

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

O.A. No.76/2014

Wednesday, this the 9th day of October 2019

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

Mrs. Lakshmi Mathur
w/o late Shri V N Mathur
(Aged about 75 years)
75-B, Pocket A, SFS DDA Flats
Sukhdev Vihar, New Delhi – 110 035

..Applicant

(Mr. N L Bareja, Advocate)

Versus

1. Union of India
The Director General (Works)
Central Public works Department
Nirman Bhawan, New Delhi – 110 001
2. The Chief Controller of Accounts
CPWD Nirman Bhawan
New Delhi – 110 001
3. The Dy. Secretary (Admn.)
o/o the Director General (Works)
CPWD, Nirman Bhawan
New Delhi – 110 011
4. The Executive Engineer
Ajmer Central Division
CPWD, New Kacheri Road
Ajmer – 305 001
5. The Pay and Accounts Officer
CPWD, East Block 4, Level 6
R K Puram, New Delhi – 110 066

..Respondents

(Mr. S K Tripathi, Advocate for Mr. Gyanendra Singh,
Advocate)

O R D E R (ORAL)**Justice L. Narasimha Reddy:**

This case has a very chequered history. The applicant joined the service of Central Public Works Department (CPWD) on 05.09.1962. After serving for about 14 years, he went on deputation to Delhi Development Authority (DDA) as Junior Engineer (Civil) on 27.01.1977. Hardly within 4 months, he joined the service of Indian Tourism Development Corporation (ITDC) as Assistant Engineer (Civil). He retired in that Corporation on 31.05.1997.

2. Substantial litigation ensued as regards the manner in which the service of the applicant in the CPWD must be treated. At one stage, he sought voluntary retirement from service (VRS) and at another stage, he submitted a technical resignation. As a result of the direction issued by this Tribunal in O.A. No.04/2003, his technical resignation was accepted w.e.f. 26.05.1977. Thereafter, the applicant filed O.A. No.1775/2005 seeking directions to pay pro-rata retirement benefits and leave encashment benefits. Since the PPO dated 19.04.2006 was issued, the O.A. was disposed of vide order dated 31.05.2006. Then came the question of fixation of pension. The respondents determined the pension of the applicant, through proceedings dated 07.03.2009 and the same was forwarded to him on 22.10.2009.

3. The applicant filed O.A. No.2653/2006 in this behalf, and it was dismissed, through order dated 29.01.2008. Thereafter the applicant filed W.P. (C) No.6908/2008, but the same was withdrawn on 24.10.2013, with liberty to file fresh O.A. before this Tribunal.

4. Accordingly, the present O.A. is filed claiming the reliefs in the form of direction to the respondents (a) to treat the case of the applicant on par with VRS employees and to pay the pension and all other retirement benefits, (b) to direct the respondents to take into consideration the basic pay as on 04.09.1982 by adding to it 15% of basic pay, (c) to revise the pension on the basis that he has completed 25 years of service, (d) to pay revised gratuity & leave encashment on the basic pay + DA + DP as on 04.09.1982, (e) to direct the respondents to pay the family pension to the applicant, (f) to issue revised PPO taking into consideration the order/instructions of the Hon'ble High Court in W.P. (C) No.1535/2012; (g) to sanction any other retirement benefits.

5. The O.A. was earlier dismissed through a detailed order dated 11.03.2015. The applicant filed W.P. (C) No.4687/2016 before the Hon'ble High Court of Delhi. Through an order dated 24.05.2016, the Hon'ble High Court took the view that the plea raised by the applicant as regards the formula applied by the respondents, need to be examined by the Tribunal in detail. To be precise, the respondents have applied the fraction of 29/160,

whereas, according to the applicant, it should be 29/35. Accordingly, the matter was remanded to the Tribunal only for adjudication on that short issue.

6. After the remand, the respondents filed additional affidavit, indicating the relevant provisions of CCS (Pension) Rules, 1972 as well as the table appended thereto. During the pendency of this O.A., the applicant died and accordingly, M.A. No.2476/2017 was filed for substituting the legal representative of the deceased. Through an order dated 04.10.2017, the M.A. was allowed and Mrs. Lakshmi Mathur, the wife of deceased, was substituted as the legal representative.

7. We heard Mr. N L Bareja, learned counsel for applicant and Mr. S K Tripathi for Mr. Gyanendra Singh, learned counsel for respondents, in detail.

8. It appears that the applicant did not feel restricted in the context of pursuing remedies, despite adjudication that has taken place in the earlier rounds of litigation. Though his plea on the basis of VRS with effect from 1982 was rejected and was repelled in successive litigations, the main prayer in this O.A. is only based upon the so-called VRS, effective from 1982. The lack of basic understanding of the scheme of pension on the part of the applicant is evident that even during his lifetime itself, he wanted the respondents to pay family pension.

9. The only issue on which the Hon'ble High Court remanded the matter is evident from the following paragraph:-

“7. Keeping in view the aforesaid facts, we pass the order of remand to examine ground (c) sub-ground (i) and (iii). This aspect will be examined with reference to the computation made by the respondents enclosed at page 36 to 39 of the present paper book and the computation made by the petitioner enclosed at page 111 of the present paper book. To cut short the delay we direct the petitioner and the respondents to appear before the Tribunal on 11.07.2016. By then, the respondents will file their response before the Tribunal on the calculation made by the petitioner and justify the calculation made by them, or in case there is any error in the order passed by the respondents, they may rectify it on their own.”

10. In the calculation sheet made available to the applicant, which we find at pages 106 onwards of the O.A., the respondents applied the fraction of 29/160. To be precise, the formula applied by them is $558.299 \times 29/160 = 101.1916$. According to the applicant, the multiplier should have been 29/35 and not 29/160.

11. The applicant contends that the maximum length of service of an employee is taken as 35 years and the denominator must be the units of half yearly service. The applicant completed 14 years, 8 months of service, and accordingly, it becomes 29 units. The respondents have also taken the same figure. The whole controversy is about divider, namely, whether it should be 35 or 160.

12. In the additional reply filed by the respondents, it was clearly mentioned that Rule 49 of the CCS (Pension) Rules, 1972

gets attracted to the employees, who retired from service before completing the qualifying service and the table appended thereof was applied. The first column in the table represents the “completed six monthly periods of qualifying service”, the second column represents the “scale of pension” and the third “maximum pension (in rupees per annum)”. In case of the applicant, the figures are as under:-

completed six monthly periods of qualifying service	scale of pension	maximum pension (in rupees per annum)
29	14 1/2 /80ths of average emoluments	5,437.50

13. Since there is fraction in the 2nd column, the same has been rounded off to the next integer by multiplying the same with 2. The result would be 29/160. That exactly is the formula applied by the respondents. The applicant is not able to establish that Rule 49 of CCS (Pension) Rules, or for that matter the table, does not apply to the facts of the case.

14. We do not find any merit in this O.A. It is accordingly dismissed. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

October 9, 2019
/sunil/