

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

**O.A. No.60/751/2017
M.A. No.60/1004/2017**

Date of decision: 20.09.2019

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CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J).

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Nek S/o Maha Singh, R/o VPO Mullowal, Tehsil Dhuri, District Sangrur,
Punjab.

...APPLICANT

VERSUS

1. Union of India, Ministry of Railways, Rail Bhawan, New Delhi, through its Secretary.
2. Senior DPO (Pension Sanctioning Authority), Northern Railway, Ambala-Cantt.
3. Divisional Finance Manager, Finance Division, Northern Railway, Ambala Cantt.
4. Assistant Engineer, Northern Railway, Patiala.

...RESPONDENTS

PRESENT: Sh. Manish Bhardwaj vice Sh. Ashok Bhardwaj, counsel for the applicant.
Sh. Yogesh Putney, counsel for the respondents.

ORDER (Oral)

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SANJEEV KAUSHIK, MEMBER (J):-

1. Present O.A. has been filed by the applicant for issuance of direction to the respondents to fix his pension and pensionary benefits on the last pay drawn i.e. Rs.1225/- instead of Rs.1175/-.
2. Along with the O.A., the applicant has also filed an M.A. for condonation of delay.
3. The respondents have filed reply to M.A. for condonation of delay as well as main O.A. and a separate reply has been filed by respondent no.4, as well.

4. Heard learned counsel for the parties.
5. Sh. Manish Bhardwaj appearing on behalf of the respondents vehemently argued that in view of Annexure A-2, the applicant is entitled to fixation of his pension on the last pay drawn @ Rs.1225/-, where respondents have wrongly fixed his pension by taking last pay drawn @ Rs.1175/-. Thus, he submitted that the impugned order be set aside while allowing M.A. for condonation of delay.
6. Learned counsel for the respondents vehemently opposed the prayer for condonation of delay and on merit also.
7. Sh. Yogesh Putney, learned counsel for the respondents submitted that the applicant retired on 31.07.1995 and after more than 20 years, he has approached this Court, thus, he submitted that O.A. be dismissed being hopelessly time barred.
8. On merit, he submitted that in reply to para 4(v) to (x), it has been indicated that the applicant was getting basic pay of Rs.950-1500 with annual increments and on the date of his retirement, his pay was Rs.1175/-, which reads as follows:-

“That in reply to said sub paras of the OA, it is submitted that as explained above, the claim of the applicant that his last drawn pay was Rs.1225/- is absolutely baseless and contrary to the record. The pension of the applicant was rightly fixed at the time of his retirement in the year 1995 by taking into account his last drawn pay as Rs.1175/-. As such the OA is absolutely devoid of merits and deserves to be dismissed with heavy cost.

Furthermore as per instructions contained in P.S. No.11466/97/PCV-106 dated 26.10.1999 (Annexure R-4 herewith), in accordance with FR 22(i)(a)(1) Rule 1313 (1)(a)(1) DRMII circulated vide Board's letter No.F(E)II/89/FR/1/1 dated 12.12.91, on promotion to a post carrying duties and responsibilities of greater importance the initial pay of a Government servant in the time scale of the higher post is fixed at stage next above the notional pay

arrived at by increasing his pay in the lower post held by him regularly by one increment at the stage on which such pay is accrued or Rs.25/- only whichever is more. Accordingly, on promotion of the applicant from Grade 825-1500 to Grade 950-1500 as Mate, his pay was fixed after giving him benefit of Rs.25/- as per the extant rules, as the annual increment in grade 950-1500 was Rs.20/- only, from Rs.1020 to the corresponding stage in grade 950-1500 at Rs.1050/- w.e.f. 06.05.1989. Consequently, the annual increments in the Promotional grade of Rs.950-1500 was granted to the applicant as under:-

01.05.1990= 1070
 01.05.1991= Rs.1090
 01.05.1992= Rs.1110
 01.05.1993= Rs.1130
 01.05.1994= Rs.1150
 01.05.1995 = Rs.1175"

9. He also submitted that in the reply filed by respondent no.4, it has specifically been indicated that while rectifying their mistake whereby last pay drawn was taken as Rs.1225/-, correction has been carried out in service book of the applicant, which is annexed with the reply. It is submitted that a mistake can be always rectified at any time. He also submitted that at no point of time, applicant was given pension by treating last pay drawn as Rs.1225/-. He also submitted that PPOs to this effect has also been issued wherein pension has been fixed by treating last pay drawn as Rs.1175/- . Thus, he prayed that the O.A. be dismissed.
10. I have given my thoughtful consideration to the entire matter and have perused pleadings available on record.
11. It is not in dispute that applicant retired on 31.7.1995 and was getting pension by treating his pension as Rs.1175/- which he did not challenge for long period i.e. for 20 years. After that he has moved before this Court by filing this O.A. without giving plausible reasons for condoning the delay in approaching this Court. It has repeatedly

been held that if a person does not approach the Court within time then application cannot be allowed at later stage being stale claim. Reliance in this regard is place in the cases of **Union of India vs. Harnam Singh** (1993 (2) SCC 162). In the case of **Union of India & Ors. vs. M.K. Sarkar** (2010 (2) SCC 58) Lordships have discouraged the attitude of the employee in filing repeated representation for extending limitation by holding that repeated representation will not extend period of limitation. Same view has been taken in the case of **S.S. Rathore vs. State of Madhya Pradesh** (1990 (4) SCC 582). Thus, applicant has no case. Even on merit, applicant fails to contradict the averment made by respondents, as noted above in relevant extracted paragraph that applicant was getting salary @ 1150/- with increment of Rs.50/- and as per which the last increment was drawn on 1.5.1994 when he was getting salary @ Rs.1150/- and another increment was given on 1.5.1995 when he was getting @ Rs.1175/-. Therefore, the M.A. along with O.A. is dismissed on the ground of delay as well as merits. No costs.

(SANJEEV KAUSHIK)
MEMBER (J)

Date: 20.9.2019.
Place: Chandigarh.

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