

**CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH**

ORIGINAL APPLICATION No.310/00998/2015

Monday, the 27th day of June, Two Thousand Sixteen

P R E S E N T

THE HON'BLE MR. R.RAMANUJAM, ADMINISTRATIVE MEMBER

P.Subramaniam,
No.4/160, Anna Street,
Pozhuchalur,
Chennai 600 074. .. Applicant

By Advocate M/s *Kavitha Deenadayalan*

Vs.

1.Union of India, Rep., by its
Secretary, Ministry of Defence,
New Delhi 110 001.

2.The DPDO Officer,
O/o the CDA,
No.618, Anna Salai,
Teynampet, Chennai 600 018.

.. Respondents

By Advocate Mr.S.Nagarajan

ORDER

(Pronounced by Hon'ble Mr.R.Ramanujam, Member(A))

Heard both.

2. This OA has been filed seeking the following relief:

"(i)To call for and examine the entire record of the case, accept and allow this OA (ii)Quash the proceedings related to the letter of the 2nd respondent dated 23.06.2015 whereby the applicant's pension was reduced from Rs.7837/- to Rs.5,225/- per month and decision to recover a sum of Rs.4,34,825/- from the applicant's reduced pension in 118 installments at Rs.3,710/- w.e.f June 2015."

3. The learned counsel for the applicant submits that the applicant is aggrieved by the drastic reduction in his pension from the month of June 2015. It is submitted that on approaching the authorities, the applicant managed to obtain Annexure A-5, the impugned order which is dated 23.06.2015 and which is a mere intimation of the alleged overpayment of Rs.434825/- for the period 01.01.2006 to 31.05.2015. It was also proposed therein to recover the overpayment in installments of Rs.3710/- per mensem with effect from 6/2015. The learned counsel would argue that a mere intimation of over payment and consequent recovery should not be deemed sufficient in the case of persons like the applicant who is a pensioner of advanced age. The principles of natural justice would demand that the applicant should be heard before such action is taken for which a formal show cause notice ought to have been issued. As this was not done, the action of the

respondents in reducing the pension downwards from Rs.7837/- pm to Rs.5225/- pm with retrospective effect was arbitrary and is liable to be quashed and set aside.

4. The learned counsel for the respondents would, however, point out that due intimation of the proposed action was given to the applicant and the respondents were always at liberty to correct any errors in the fixation of pension. An undertaking had also been obtained from the applicant to this effect and, therefore, the respondents are fully justified in revising the pension downwards and making the recovery.

5. I have carefully examined the rival submissions in the light of the facts available on record. It appears that there is some confusion in understanding the table showing existing Basic pension/Family pension without Dearness Pension/Family Pension with Dearness Pension, etc and Revised Consolidated Pension/Family pension attached as Annexure I to the Office Memorandum F.No.38/37/08-P&PW(A) dated 01.09.2008 of the Department of Pension & Pensioners' Welfare (Annexure R-5). It is this confusion that led to an erroneous reading of the relevant entry resulting in the wrong fixation of basic pension as Rs.7837/- for the applicant. It has been clarified that the respondents had earlier mistakenly taken the basic pension without dearness pay(DP) to be Rs.3467/- which with DP would be Rs.5201/- and

consequently, the applicant was granted pension fixation at Rs.7837/- As a matter of fact, the applicant was only in receipt of a basic pension of Rs.2311/- which with DP was Rs.3467, consequently entitling the applicant to a revised pension of Rs.5225/- only. The respondents, on discovering that the amount of Rs.3467/- being paid to the applicant as pre 2006 pension included the DP, applied the relevant entry and fixed the revised consolidated pension as Rs.5225/-. Accordingly they had proceeded to take action for correction of the mistake as well as effecting the necessary recovery.

6. Nevertheless, the plea of the learned counsel for the applicant that the applicant ought to have been given an opportunity to be heard before proceeding in the matter, carries force. Given his age and state of health as reported by the learned counsel for the applicant, the applicant was bound to find it shocking and feel utterly helpless when such a revision and consequent recovery is ordered suddenly and behind his back. In view of the above, I deem it appropriate to direct the respondents to first issue a show cause notice to the applicant and consider his representation if any, thereon. The applicant may also be heard before passing a speaking order. As far as recovery of any excess pension paid, the respondents shall keep in view the OM in F.No.18/03/2015-Estt.(Pay-I) dated 02.03.2016 of the DOP, referring to the judgment of the Hon'ble Apex Court in the case

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etc in CA No.11527 of 2014 dated 18.12.2014. The recovery of the alleged excess of Rs.434825 shall remain stayed till the respondents pass orders in the aforesaid manner.

7. The OA is disposed of with the above direction. No costs.