

.1.

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.180/00178/2018

Monday, this the 24th day of June, 2019

Hon'ble Mr.E.K.Bharat Bhushan, Administrative Member

K.N.Sreedharan Pillai, S/o.Late Narayana Pillai
Aged 71 years, Head Assistant (Assam Refiles) (Retd.)
Raja Bhavan, Njakkanal
Krishanpuram, Kayankulam
Alappuzha Dist. – 690 533

..... **Applicant**

(By Advocate Mr.C.S.G Nair)

V e r s u s

1. The Director General
Assam Refiles, East Khast Hills
Shillong-793011, Meghalaya State
2. Pay & Accounts Officer
Assam Refiles
Shillong – 793 011
3. Chief Controller of Accounts
Central Pension Accounting Office
Trikoort II Complex, Bhikajicama Place
R.K.Puram, New Delhi – 110 066
4. Union of India
Represented by its Secretary
Department of Pension & Pensioners' Welfare
South Block, New Delhi – 110 001

..... **Respondents**

(By Advocate – Mr.Anil Ravi, ACGSC)

This Original Application having been heard on 12.6.2019, the Tribunal on 24.6.2019 delivered the following:

ORDER

Per: Mr.E.K.Bharat Bhushan, Administrative Member

This Original Application is filed by Mr.K.N.Sreedharan Pillai, retired Head

Assistant (Assam Rifles) praying for the following reliefs:

“(i) To declare that the applicant is entitled for pension based on the pay band plus grade pay i.e, Rs.9300-34800 with a grade pay of Rs.4200/- applicable to the post of Head Assistant w.e.f 1.1.2006 and then revise it to Rs.19,950/- based on Annexure A4.

(ii) To direct the respondents to issue a revised PPO fixing the pension at Rs.19,950/- w.e.f 1.1.2016

(iii) To direct the respondents to draw and disburse the arrears of pension @ Rs.19,950/- w.e.f 1.1.2016 with all consequential benefits within a stipulated period.”

2. The applicant joined service in Assam Rifles as Lower Division Assistant on 10.10.1967. While working as Head Assistant, he voluntarily retired from service on 31.3.2003 after a qualifying service of 35 years 5 months and 22 days and was granted a monthly pension of Rs.2925/-. It is submitted that the pay scale of Head Assistant revised w.e.f 1.1.1996 as per the CCS(RP) Rules, 1997 was Rs.4500-125-7000. On implementation of the 6th CPC recommendations, applicant's pension was revised to Rs.6750/- and the pre-revised scale was shown as Rs.5000-150-8000(Annexure A2). Again, the pension was revised and fixed at Rs.7413 w.e.f 1.1.2006 as per Annexure A3. On implementation of 7th CPC recommendations, his pension was revised to Rs.16,780/- w.e.f 1.1.2016 and further revised to Rs.17,950/-. The contention of the applicant is that his pension is to be revised based on the O.M No.38/37/2016-P&PW(A) dated 12.5.2017, for which the notional pay of the applicant as on 1.1.1996 has to be arrived at first and then the notional pay at the time of retirement is to be taken into consideration for fixing the pension w.e.f 1.1.2016.

3. Reply statement has been filed by the respondents. While admitting the qualifying service rendered by the applicant, they submitted that the basic pay at the time of retirement of the applicant was Rs.5875/- and accordingly his pension was fixed at Rs.2925/- per month in the pay scale of Rs.4500-125-7000. On implementation of 6th CPC, his pension was revised to Rs.6750/- and inadvertently intimated to the applicant as Rs.7413/-. Consequent to the implementation of the 7th CPC, the Government decided to

.3.

revise pension of all pre-2016 pensioners and family pensioners vide Ministry of Personnel, Public Grievances & Pensions O.M dated 12.5.2017. Accordingly, applicant's pension was revised to Rs.17,950/-. Respondents state that as per the fitment table, his notional pay has been correctly fixed at Rs.35,900/- and his pension has been correctly revised at Rs.17,950/- (i.e, 50% of notional pay) w.e.f 1.1.2016 (Annexure R V).

4. Respondents object to the maintainability of the O.A as the cause of action raised in the O.A is the revision of pension of the applicant and the pension revising authority is located at Shillong which is outside the territorial jurisdiction of this Tribunal. Hence, respondents pray for dismissal of the O.A.

5. Rejoinder has been filed by the applicant reiterating the contentions stated in the Original Application. It is submitted that the present O.A is for revision of pension which the applicant receives through the State Bank of India in Ochira Branch and hence this Tribunal has jurisdiction in this matter.

6. In the additional reply statement it is stated by the respondents that the applicant's pension has not been reduced and no violation of provision of Rule 70 of CCS (Pension) Rules 1972 has occurred. With regard to the endorsement of pay scale of Rs.5000-8000 in the PPO, it is submitted that this is on account of a system error and the error has already been rectified in Annexure R-V. It is also submitted that the applicant's pension has been fixed at Rs.6750/- and not at 7413/-.

7. Heard Mr.C.S.G Nair, learned counsel for the applicant and Mr.Anil Ravi, learned ACGSC on behalf of the respondents. Perused the records.

8. The short question for consideration in this matter is whether the applicant's pension is correctly fixed at Rs.17,950/- or not. Respondents admit their inadvertent mistake in showing the pay scale of Rs.5000-8000 instead of Rs.4500-125-7000 due to

.4.

system error and they have rectified the same vide Annexure R V also. It is seen that the applicant had submitted a representation on 6.7.2017 to the first respondent vide Annexure A-5 which is not responded to by the respondents yet. This Tribunal is of the view that the Original Application can be disposed of by directing the applicant to submit a comprehensive representation to the respondents, who in turn will take a decision in accordance with law within 30 days from the date of receipt of representation submitted by the applicant. Ordered accordingly.

9. The Original Application is disposed of as above. No costs.

(E.K BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

SV

List of Annexures

- | | |
|----------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Annexure A1 | - True copy of the PPO No.234980302687 |
| Annexure A2 | - True copy of the Revision Authority dated 26.8.2014 issued by the 3 rd respondent |
| Annexure A3 | - True copy of the letter No.1.36011/Rev.Cell/2017/310 dated 12.8.2017 issued by the 1 st respondent |
| Annexure A4 | - True copy of the O.M No.38/37/2016- P&PW(A) dated 12.5.2017 |
| Annexure A5 | - True copy of the representation on 6.7.2017 to the 1 st respondent |
| Annexure R1 | - A copy of the letter No.PAP/AR/Pen/234980302687 dated 9.4.2003 |
| Annexure R-II | - copy of the Diary No.W023498140700558 dated 22.7.2014 |
| Annexure R-III | - Copy of the (O.M) No.38/37/08-P&PW(A) dated 28.1.2013 |
| Annexure R-IV | - copy of the O.M No.38/37/2016-P&PW(A) dated 6.7.2017 |
| Annexure R-V | - Copy of the Diary No.234980302687A3/13280 dated 01.09.2017 |
| Annexure R-VI | - Copy of the judgment of the Hon'ble kerala High Court in passed in WP No.19270 of 2014 |
| Annexure R-VII | - Copy of the judgement of the Hon'ble High Court of Delhi at New Delhi passed in WP No.18 of 2014 and CM No.39/2014 filed by Sep Rajveer Singh v. UOI and others |
| Annexure A-6 | - True copy of the judgment of Hon'ble High Court of Kerala in WP© No.22232/15 |