

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

O.A. No.020/00101/2019

Date of Order :12.07.2019.

Between :

M.Chakrapani, Gr-C, s/o late M.Obulesappa,
Aged 60 yrs, Occ:Retired APM (Accounts),
Anantapur HO, Anantapur Division, AP.

...Applicant

And

1. Union of India, rep., by the Secretary to the
Govt. of India, M/o Communications & IT,
Dept. Of Posts, New Delhi-110 001.

2. The Chief Postmaster General,
AP Circle, Vijayawada-10.

3. Post Master General, Kurnool Region,
Kurnool-518 002.

4. The Director Postal Accounts,
AP TG Circles, Hyderabad-500 001.

5. The Superintendent, Anantapur Division,
Anantapur-515 001.

... Respondents

Counsel for the Applicant ... Mr.B.Gurudas

Counsel for the Respondents ... Mrs.K.Rajitha, Sr.CGSC

CORAM:

THE HON'BLE MR.B.V.SUDHAKAR, MEMBER (ADMN.)

ORAL ORDER

BY B.V.SUDHAKAR, MEMBER (ADMN.)

The OA is filed challenging the action of the respondents in sanctioning the retirement benefits including pension, DCRG and leave encashment without taking into account the enhanced DA at the time of retirement.

2. The brief facts of the case are that the applicant retired from service on 30.06.2013. His retirement benefits including pension, DCRG and leave encashment were sanctioned and paid without taking into account the 10% DA granted with effect from 01.07.2013. The applicant made a representation on 01.11.2018 requesting for enhanced DA of 10% on the retirement benefits. His request has not been considered so far.
3. Aggrieved by the same, the present OA has been filed.
4. The contention of the applicant is that his case is fully covered by the orders of this Tribunal in O.A.No.252/2015, dated 18.11.2015, and that of the Hon'ble High Court of AP in the case of the Principal Accountant General, AP, Hyderabad v. C.Subba Rao (2003).

5. The respondents in their reply statement have given the details of the retirement benefits sanctioned and paid to the applicant. According to the respondents in the case of all kinds of Gratuity, DA admissible on the date of retirement/death shall continue to be treated as emoluments along with the emoluments as defined in paragraph 4.1 of the memo No.38/37/08-P & PW (A), dated 02.09.2008 of the Ministry of Personnel, Public Grievances & Pensions Department of Pension and Pensioners Welfare. The applicant is not entitled to DA increase w.e.f. 01.07.2013, as he has retired in the previous month. When the enhanced DA was announced, he was no longer in Central Government service, but had become pensioner with effect from 01.07.2013. The date of retirement shall be treated as last working day and pension shall be payable with effect from the day the Government servant ceases to be borne on roll of the respondents and that the DA prevalent on the date of retirement shall be considered for calculating the gratuity. The enhanced rate of DA would be applicable to serving employees as on 01.07.2013. The respondents also cited the orders of this Tribunal in OA.Nos.189/2016 and 190/2016, which were challenged before the Hon'ble High Court of AP and Telangana, at Hyderabad in W.P.Nos.35139/2017 and 35126/2017. The Hon'ble High Court has dismissed both the Writ Petitions stating that the orders of this Tribunal were covered by the verdict of the Full Bench of the Hon'ble High Court of Andhra Pradesh & Telangana at Hyderabad, in

W.P.Nos.22042, 24191, 24308 and 24324/2003. Consequently, respondents filed SLP Nos.5646/2018 and 5647/2018 before the Hon'ble Supreme Court of India. The Hon'ble Supreme Court has stayed the operation of the impugned order dated 24.10.2017 of the Hon'ble High Court in W.P.Nos.35126/2017 and 35139/2017.

6. Heard Mr.B.Gurudas, learned Counsel for the Applicant and Mrs.K.Rajitha, learned Sr.Standing Counsel for the Respondents, and perused the documents placed on record.

7. The matter is now under adjudication by the Hon'ble Supreme Court in the SLPs referred to above. Hence, it is proper and appropriate to await the pronouncement of the Hon'ble Apex Court in the matter. Therefore, the respondents are directed to dispose of the request of the applicant based on the outcome of the said SLPs.

8. With the above direction, the OA is disposed of. No order as to costs.

**(B.V.SUDHAKAR)
MEMBER (ADMN.)**

Dated:this the 12th day of July, 2019

DSN.