

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

Original Application No.20/00429/2019

Date of Order: 14.06.2019

Between:

C. Peddi Reddy, Gr.C,
S/o. C. Narayana Reddy,
Aged 76 years, Occ: Retired SPM,
Anantapur Division,
R/o. H. No. M-206, Housing Board Colony,
Sainagar, Anantapur Dist & Post – 515 001, AP.

... Applicant

And

1. Union of India,
Rep. by the Secretary to Government of India,
MOC & IT, Department of Post,
Dak Bhavan, New Delhi – 110 001.
2. The Chief Post Master General,
AP Circle, Vijayawada – 520 003.
3. The Post Master General,
Kurnool Region, Kurnool – 518 002.
4. The Director Accounts, Postal,
A.P. Circle, Hyderabad – 500 001 (TS).
5. The Superintendent of Post Offices,
Anantapur Division, anantapur – 515 001,
Anantapur District, AP.

... Respondents

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

Counsel for the Respondents ... Mr. V. Venu Madhav Swamy,
Addl. CGSC

CORAM:

Hon'ble Mr. B.V. Sudhakar, Member (Admn.)

ORAL ORDER
{As per Hon'ble Mr. B.V. Sudhakar, Member (Admn.) }

2. The applicant filed the OA for not revising his pension as per OM dt 1.9.2008 of the Department of Pension & Pensioners' Welfare.
3. Applicant, while working for the respondents organisation as Postal Assistant, was compulsorily retired on 24.7.1987. Pension was fixed on pro-rata basis. As per 6th CPC, pension has to be fixed as 50% of the last pay drawn and it should not be less than 50% of the minimum of the pay in the Pay Band plus the Grade Pay corresponding to the pre-revised scale. Applicant represented to revise pension accordingly on 11.2.2019. As it was not done, OA is filed.
4. The contentions of the applicant are not fixing pension as 50% of last pay drawn is violative of orders contained in DOP & PW Memo dt. 1.9.2008. Applicant is being discriminated in revising the pension to pre-2006 retirees as has been done in respect of all other pensioners. Revision of pension is being denied to employees compulsorily retired without amending Rule 40 of CCS (Pension) Rules, 1972. An executive instruction cannot override a statutory provision. Applicant has cited Orders of this Tribunal in OAs 1106/2017, 84/2018, 262/2018 and the judgment of the Hon'ble High Court of Kerala in OP (CAT) No. 2 of 2016 (Z) in support of his contentions.
5. Respondents contend that the applicant is not eligible for revision of pension since he was compulsorily retired, as per OM dated 22.7.2011 of the Dept. of Pension and Pensioners' Welfare. Besides, as per 7th CPC, the pension of the applicant has been fixed as Rs.11,654/- p.m

which is greater than the minimum pension of Rs.9000 to be fixed. Respondents have filed SLP (C) No 6726/2017 against the orders of the Hon'ble High Court of Kerala and that the same is pending. Similarly, against the orders of this Tribunal in OA 262/2018 cited by the applicant, Hon'ble High Court has granted stay on 23.4.2019 in IA No. 1/2019 in WP No. 5320/2019.

6. In view of the fact that the issue is under adjudication by the Hon'ble Supreme Court and the Hon'ble High Court of Andhra Pradesh, the OA is disposed giving the liberty to the applicant to revert to the Tribunal, if he so chooses, depending on the outcome of the SLP and the W.P filed, referred to in paras supra.

7. There shall be no order as to costs.

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

Dated, the 14th day of June, 2019

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