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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 1351/2003

New Delhi this the 27th day of January, 2004

Hon'ble Shri R.K.Upadhyaya, Member (A)

A.R.Srinivasan,
S/O late S.Ranganathan,
R/O C-92-Takshshila Apartments,
57, I.P. Extension, Delhi-92

..Applicant

(By Advocate Shri S.C.Saxena)

VERSUS

1. Union of India through
Secretary, Ministry of
Defence, South Block,
New Delhi.
2. Secretary,
Ministry of Personnel
Public Grievances and Pension
Department of Pensions and Pensioner's
Welfare, 3rd Floor, Lok Nayak Bhawan,
Khan Market, New Delhi.
3. Controller General of Defence Accounts,
West Block-5, R.K.Puram, New Delhi.

..Respondents

(By Advocate Shri R.V.Sinha proxy counsel
for Shri R.N.Singh)

O R D E R (ORAL)

Hon'ble Shri R.K.Upadhyaya, Member (A)

This application has been filed under Section 19 of the Administrative Tribunals Act, 1985 seeking a direction to the respondents to give him the benefit of the judgement of Hyderabad Bench of this Tribunal dated 28.11.2002 in OA 1345/2001 in case of **Shri R. Rama Murthy Vs. UOI and Ors.** The applicant has also requested for refixation of his pension in terms of that judgement and for a direction for payment of arrears due to him.

2. The applicant was appointed as UDC in the office of the Controller of Defence Accounts , Ministry of Defence

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on 30.8.1957. Subsequently, he was promoted as Accountant on 29.7.1963. The applicant was sent on deputation on 20.10.1975 in public interest to BHEL and was subsequently absorbed with effect from 14.2.1977. He was granted pro-rata pension on retirement on absorption. His retiral pension was fixed at Rs.172/- P.M on 14.2.1977. 1/3rd of the pension being Rs. 57/- was commuted and that the balance amount of being Rs. 114/-, he received as terminal benefits. The claim of the applicant is that after the expiry of 15 years from the date of such commutation, he becomes entitled to full pension as commuted portion is restored. The case of the applicant is that he should have been given benefit as per the judgement of the Hyderabad Bench of this Tribunal in the case of Shri R. Rama Murthy(supra). However, the respondents have rejected the claim of the applicant as follows:-

" After careful examination of the order dated 28.11.2002 delivered by the Hon'ble CAT, Hyderabad Bench at Hyderabad in pa No.1345 of 2001, forwarded alongwith your repn. Cited under reference, it is intimated that the benefit of restoration of CVP in accordance with the above CAT orders can not be extended to you as you are not the applicant in the above OA".

Learned counsel of the applicant states that every retired Govt. employee should not be forced to become a party in the litigation. On the other hand, any benefit due to him should accrue to him as a matter of course. According to the learned counsel, the rejection of the representation of the applicant seeking benefit of the judgement of the Hyderabad Bench of this Tribunal on the face of it is against the settled legal principles.

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3. The respondents have opposed the prayer of the applicant and had filed a reply. According to the respondents, the Ministry has not taken any decision on the issue.

4. The applicant has also filed rejoinder and has reiterated the same points as in the OA and has requested for extending the benefits as granted by the Hyderabad Bench in their judgement dated 28.11.2002.

5. After hearing the learned counsel of both the parties and after perusal of the materials available on record, it is evident that this issue had come up before the Hyderabad Bench of the Tribunal in the case of **Shri R. Rama Murthy** (supra). The Hon'ble Tribunal had observed as follows:-


".....But we are unable to accept this contention since it is found from the admitted facts that the applicant has commuted only 1/3rd of the pension without any condition and commuted the remaining 2/3rd portion of the pension receiving terminal benefits subject to the condition imposed that he would not claim the same. In view of that distinction maintained, the applicant became entitled to restoration of 1/3rd of the full commuted pension after the expiry of 15 years with all attendant benefits including right to receive the post commuted revision and attendant benefits including dearness relief on the full pension in view of the law laid down in para 13 of the above decision and the earlier decision of the Supreme Court reported in 1996(2)SCC 187 (supra)".

6. The claim of the applicant appears to be similar to the applicant in the case before Hyderabad Bench of this Tribunal. Therefore, rejection of the representation of the

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applicant on the ground that the applicant before Hyderabad Bench was not a party there, is not in conformity with the legal settled principles. The letter dated 18.3.2003 (Annexure A 1) is, therefore, quashed and set aside and the respondents are directed to re-consider the case of the applicant in the light of the decision of the Hyderabad Bench of this Tribunal in the case of R. Rama Murthy (Supra) and communicate the decision taken in this regard to the applicant within a period of three months from the date of receipt of a copy of this order.

7. This OA is accordingly disposed of without any order as to costs.


(R.K.Upaddhyaya)
Member (A)

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