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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

O.A. NO.2574/2003

This the 29<sup>th</sup> day of March, 2004

HON'BLE SHRI V. K. MAJOTRA, VICE CHAIRMAN (A)

G.R.Nigam S/O late A.R.Nigam,  
R/O A-149, Ashok Vihar Phase-I,  
Delhi-110032.

(Retired as Principal, Govt.  
Boys Sr. Secondary School,  
A Block, Jahangirpuri, Delhi.

... Applicant

( By Shri C. B. Pillai, Advocate )

-versus-

1. Govt. of NCT of Delhi through  
Chief Secretary, Players Building,  
IP Estate, New Delhi.

2. Director of Education,  
Govt. of NCTD, Old Sectt.,  
Alipur Road, Delhi.

3. Deputy Director of Education,  
Distt. North West-A,  
Hakikat Nagar, Delhi.

4. Pay & Accounts Officer, No.-IX,  
Old. Sectt., alipur Road,  
Delhi.

... Respondents

( By Shri George Paracken, Advocate )

O R D E R

Vide order dated 28.2.2003 in OA No.1573/2002  
(Annexure A-17), applicant was allowed liberty to make  
representation to the respondents for ante dating his  
date of sanctioning of commutation from 17.2.1999 to  
1.7.1996 with consequential benefits. Applicant's  
representation pursuant to aforesigned orders of the  
Tribunal was made on 19.5.2003 which has been rejected by  
impugned order Annexure A-1 dated 18.8.2003.

(Signature)

2. Applicant retired on 30.6.1996 from the post of Principal, Government Boys Senior Secondary School, Jahangirpuri, Delhi, under the Government of NCT of Delhi. He submitted application in Form 1A (Annexure A-2) on 30.5.1996 for commutation of one-third of pension w.e.f. 1.7.1996. The same was forwarded by the then Deputy Director of Education to the Pay & Accounts Officer. At the time of applicant's retirement, disciplinary proceedings were pending against him. On filing of OA No.1474/1997, the Tribunal directed the respondents to complete the disciplinary proceedings within a period of four months so that his retiral benefits could be released. Respondents were granted a further time of one month by order dated 18.1.1999 in CP No.156/1998. In OA No.1186/1999 respondents were directed to pay interest at the rate of 12% from the due date till the date of actual payment. Presently, the applicant is aggrieved that in the PPO issued on 16.2.1999 (Annexure A-9), the commuted value of pension has been paid to the applicant w.e.f. 17.2.1999 showing the date of restoration of commuted portion as 17.2.2014 instead of commutation from 1.7.1996 and date of restoration as 1.7.2011. According to the applicant, applicant had submitted Form 1A on 30.5.1996 indicating his age next birthday as 61 on the basis of which the commuted value expressed as number of year's purchase is 9.81 and the applicant's commutation as such should have been  $Rs.2188 \times 9.81 \times 12 = Rs.2,57,572.00$ . However, the respondents have taken applicant's age next birthday as 63 after 16.2.1999 when his disciplinary proceedings were concluded on the basis of which they have taken number of -

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years's purchase as 9.15 and calculated the commuted amount as Rs.2,40,243.00 (Rs.2188 x 9.15 x 12). In this manner, with a wrong base, respondents have calculated applicant's commutation value which has caused a loss of Rs.17,329/- to the applicant who should have also been paid interest at the rate of 12% amounting to Rs.6,054/- from 1.7.1996 to 16.2.1999. As such, applicant has sought the following reliefs :

- "(i) revise the Pension Payment Order dated 16.2.99 sanctioning commutation from 1.7.96, i.e., the date following the date of retirement of the applicant, as directed by this Hon. Tribunal, instead of 17.2.99 and indicating the date of restoration as 1.7.2011 instead of 17.2.2014 presently shown;
- (ii) make payment of the correct value of commutation amount from 1.7.96 with interest @ 12% per annum compounded annually till the date of actual payment;
- (iii) allow this application with exemplary costs; and
- (iv) grant such other relief/reliefs as this Hon. Tribunal may consider just and proper in the circumstances of the case."

3.. The learned counsel of applicant pointed out that applicant was exonerated of the charge in disciplinary proceedings by the President of India on 16.2.1999. Applicant was awarded the benefits of commutation of pension immediately thereafter. The learned counsel stated that when the applicant had been exonerated of the charges, commutation and date of restoration should have been calculated with effect from the date following his date of retirement, i.e., 1.7.1996. The learned counsel drew my attention

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particularly to Annexure A-8 to state that while making the payment of interest the respondents have deducted the entire commuted portion being paid to the applicant from 1.7.1996. He further stated that according to this calculation sheet, interest at the rate of Rs.826/- per month from 1.7.1996 to 30.7.1997 and at the rate of Rs.2402/- per month from 1.10.1997 was payable to the applicant till the date on which they actually paid the commutation amount to him, i.e., 17.2.1999. Out of this, payment was made only at the rate of Rs.124/- per month from 1.7.1996 to 30.9.1997 and at the rate of Rs.214/- per month from 1.10.1997 till the date of payment on the plea that commuted amount has to be deducted from 1.7.1996. So even according to the respondents' calculation of interest, commutation has actually commenced on 1.7.1996, i.e., the date from which the commuted value was deducted from the dues of the applicant. The learned counsel supplemented that when the commuted portion paid along with the provisional pension w.e.f. 1.7.1996 was deducted from the interest paid to him in the PPO issued on 16.2.1999 (Annexure A-9), the commuted value was paid to him from 17.2.1999 only and not from 1.7.1996 in terms of applicant's option submitted through Form 1A prior to the date of his retirement. Respondents should also have shown the date of restoration of his commuted portion as 1.7.2011 instead of 17.2.2014.

4. The learned counsel of respondents contended that the applicant could have been awarded benefits of commutation of pension only from the date of exoneration

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from charges, i.e., on 16.2.1999. Thus, his restoration of full pension could also be w.e.f. 17.2.2014, after expiry of 15 years from 17.2.1999 when he was awarded commutation of pension on exoneration from charges. The learned counsel also stated that applicant had not submitted Form 1A on 30.5.1996, i.e., prior to his date of retirement as he has not clarified how he has procured copy of Form 1A duly signed by the Deputy Director of Education on 7.10.1996 which would form part of the official record.

5.. I have considered the rival contentions. It is not important how the applicant procured copy of Form 1A and got it signed by the Deputy Director of Education on 7.10.1996. Respondents have not contended that Annexure A-2, i.e., Form 1A dated 30.5.1996 is a fake document. If that were so, they would have stated that it was never submitted and never signed by the Deputy Director of Education, i.e., the Head of Office. Obviously, applicant had submitted Form 1A for commutation of a fraction of superannuation pension on 30.5.1996 which was duly forwarded by the Head of Office to Pay & Accounts Officer on 7.10.1996.

6. True that rule 4 of CCS (Pension) Rules, 1972 puts a restriction on commutation of pension in the case of a Government servant against whom departmental/judicial proceedings as referred to in rule 9 of these Rules have been instituted before the date of his retirement. However, this provision will not have any applicability after this Tribunal ordered the payment of

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all post-retiral benefits to the applicant by a specified date vide order dated 18.1.1999 in CP No.156/1998 in OA No.1474/1997 (Annexure A-15) with the following directions to the respondents :

"4. We are also not convinced by the reasons given by the respondents for the delay in finalising the proceedings against the petitioner.

5. We, however, grant the respondents a period of one month from today to pay to the applicant the post retirement benefits admissible to him. This will be subject to the final decision taken in the disciplinary proceedings."

7. Respondents complied with this order and paid interest on the commuted value of pension payable and deducted the commuted value at the rate of one-third of pension w.e.f. 1.7.1996 and at the rate of 40% w.e.f. 1.10.1997 (on the basis of the Fifth Central Pay Commission's Report implemented w.e.f. 1.10.1997). Annexure A-8 establishes that deduction of the commuted value of pension was made from 1.7.1996 to 16.2.1999. Respondents could not have delayed the payment of commutation beyond one month from the date of Tribunal's orders and hence the payment of interest on commuted value on 17.2.1999. This has no relationship with the completion of departmental proceedings. As per Annexure A-8 commutation became effective from 1.7.1996 and from the same date respondents deducted the commuted portion from the applicant's pension.

8. Exoneration of the applicant from charges in disciplinary proceedings by the President on 16.2.1999 cannot have any adverse effect on the retiral benefits due to the applicant. In such an eventuality the applicant has to be accorded due benefits from 1.7.1996,

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i.e., the date following the date of his superannuation, and restoration of full pension shall also be with effect from completion of 15 years from 1.7.1996. When no misconduct has been established against the applicant, it has to be deemed that applicant had no blemish of punishment on him and had a normal service up to the date of superannuation. Applicant's request for commutation had to be considered w.e.f. 1.7.1996 when he had submitted his option in Form 1A (Annexure A-2) on 30.5.1996 which was duly considered and forwarded by the Head of Office on 7.10.1996.

9. Having regard to the above discussion, the OA succeeds and respondents are directed to revise pension payment order dated 16.2.1999 sanctioning commutation from 1.7.1996, i.e., the date following the date of retirement of applicant, instead of 17.2.1999, and also indicating the date of restoration as 1.7.2011 instead of 17.2.2014. Respondents shall also pay to the applicant correct value of commutation amount from 1.7.1996 with interest at the rate of 12% p.a. till the date of actual payment.

10. Respondents shall implement the above directions expeditiously and preferably within a period of two months from the date of communication of these orders. No costs.

V. K. Majotra  
( V. K. Majotra )  
Vice Chairman

/as/

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