

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...
ORIGINAL APPLICATION NO.060/01038/2019
Chandigarh, this the 4th day of October, 2019

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CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)
HON'BLE MS. ARCHANA NIGAM, MEMBER (A)

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S.C. Duggal, S/o late Sh. Ram Lal Duggal, aged 78 years, Ex-Superintendent, Central Excise, Division-I, Ludhiana, Resident of House No. B/34/230/8, Inder Vihar, Chander Nagar, Civil Lines Ludhiana (Group 'B') – 141001.

....Applicant

(Present: Mr. Rohit Sharma, Advocate)

Versus

1. Union of India through its Secretary, Ministry of Finance, Department of Revenue, North Block, New Delhi – 110001.
2. Chief Commissioner, Central Excise Division, Sector 17, Chandigarh – 160017.
3. Assistant Commissioner, Central Goods and Service Tax, Division-South, Near Pancham Hospital, Canal Road, Jawaddi, Ludhiana – 141013.

..... Respondents

(Present: Mr. Sanjay Goyal, Advocate)

ORDER (Oral)

SANJEEV KAUSHIK, MEMBER (J)

1. Challenge herein is to order dated 14/15.05.2019 (Annexure A-1) whereby the claim of the applicant for fixation of his pay and pension has been rejected on two grounds that (i) his case is not covered under Rule 33 of CCS (Pension Rules) 1972 and (ii) he is not a party to the case of which benefit is sought.
2. Heard.
3. Learned counsel argued that the first objection raised by the respondents qua non-applicability of Rule 33 of CCS (Pension) Rules 1972 has been considered and decided by this Court in the case of

Hardial Singh & Others Vs. Union of India and Another (O.A. No. 428/PB/2013 decided on 03.03.2017), as affirmed by the Hon'ble High Court, holding that personal pay granted as a result of stepping up of pay at par with their junior is to be counted for granting pensionary and retiral benefits to the applicants therein. It is, therefore, prayed that the objection qua applicability of indicated rule, is liable to be negated. It is further argued that the second objection of the respondents that the benefit of a judgment is not admissible to the applicant only because he was not party to that O.A. is also not tenable in the eyes of law. It is held by the Court of law in a number of cases that it is obligatory on the part of the employer to grant the benefit of a judgment to all the similarly situated employees, without forcing them to approach the Court for similar benefits. Therefore, denial of similar benefit to the applicant who is similarly situated like the applicants in the case of Hardial Singh (supra) is illegal and arbitrary.

4. Issue notice to the respondents.

5. At this stage, Mr. Sanjay Goyal, Sr. CGSC, appears and accepts notice. He was not in a position to controvert the arguments raised on behalf of the applicant. He, however, prays that the respondents be granted an opportunity to re-consider the claim of the applicant in the light of relied upon case of Hardial Singh (supra).

6. In view of the above consensual agreement between the parties, coupled with the fact that the respondents, while examining the case of the applicant, did not consider the ratio of law laid down in the relied upon case, we deem it appropriate and in the interest of justice

to dispose of the O.A., in limine, with a direction to the respondents to re-consider the claim of the applicant in view of ratio laid down in the relied upon case and decide the same by passing a reasoned and speaking order within a period of two months from the date of receipt of a copy of this order. No costs.

(ARCHANA NIGAM)
MEMBER (A)

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(SANJEEV KAUSHIK)
MEMBER (J)
Dated: 04.10.2019

