

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

Original Application No.21/40/2019

Date of Order: 27.08.2019

Between:

- 1) K. Vasudeva Reddy
S/o Late K. Ramachandra Reddy
Aged about 69 years
Occ: Retired LSG Sorting Assistant
Hyderabad Sorting Division
R/o H.No.2-5-397/1, Nakkalagutta
HANAMKONDA, 506001.
- 2) R. Narayana Swamy
S/o Late R. Venkata Ramanappa
Aged about 72 years
Retd. Postal Assistant
R/o H.No.9-1-43/A/6
Behind Alankar Cinema
Lunger House
Hyderabad – 500 008. ... Applicants

AND

1. The Union of India represented by
Its Secretary, Government of India
Ministry of Personnel, P.G. and Pensions,
Department of Pension & Pensioners' Welfare
Lok Nayak Bhawan, Khan Market
New Delhi – 110 003.
2. The Chief Postmaster General
Telangana Circle
Dak Sadan, Abids
Hyderabad – 500 001.
3. The Director of Accounts (Postal)
Telangana Circle
Hyderabad – 500 001.
4. The Senior Superintendent of Railway Mail Services
Hyderabad Sorting Division
Hyderabad – 500 027.
5. The Senior Superintendent of Post Offices
Hyderabad City Division
Hyderabad – 500 001. ... Respondents

Counsel for the Applicant ... Mr. M. Venkanna
Counsel for the Respondents ... Mrs. D. Shobha Rani, Addl. CGSC

CORAM:

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

ORDER

2. The OA is filed in regard to revision of pension of compulsorily retired applicants as per the recommendations of the Central Pay Commissions.

3. Brief facts to be adumbrated are that the 1st applicant was retired compulsorily on 9.6.1995 and the 2nd one in the same fashion on 20.9.1990. As per CCS (Pension) Rules,1972 , framed under Article 309 of the Constitution of India, pensions are classified as under:

- i) Superannuation Pension (Rule 35),
- ii) Voluntary Retirement Pension (Rule 36),
- iii) Pension on Absorption in a Corporation (Rule 37),
- iv) Invalid Pension (Rule 38),
- v) Compensation Pension (Rule 39),
- vi) Compulsory Retirement Pension (Rule 40), and
- vii) Compassionate Allowance (Rule 41).

Officials retiring from service are paid any one of the above Pensions depending on the circumstances in which he has retired. Central Pay Commission recommended revision of pay and pension. On acceptance of the recommendations of the Central Pay Commission by the Government of India, guidelines are issued which are executive in nature. One such guideline was issued in regard to implementation of Vth Central Pay Commission, vide letter dated 27.10.1997 wherein a distinction was made by denying revision of pension of compulsory retired employees whereas for others it was permitted. Applicants made

several representations in regard to revision of their pensions and the latest being 14.9.2018. There being no response, OA is filed.

4. The contentions of the applicant are that they have been discriminated since respondents accepted recommendations of the Pay Commissions and revised pension of other pensioners but not that of the applicants. Such violation is violative of Articles 14 and 16 of the Constitution of India. Besides, denying such revision is against the CCS (Pension) Rules, 1972. An executive instruction cannot go against the recommendations of the Pay Commission, accepted by the Government.

5. Respondents in their reply statement have categorically stated that in respect of compulsorily retired pensioners there are clear directions as to not to revise their pension as per Government of India Memos dated 10.2.1998 (5th CPC), 1.9.2008 (6th CPC), 12.5.2017 (7th CPC) respectively. Therefore, the revision of Pension of the applicants was not effected.

6. Heard both the counsel and perused the pleadings on record.

7. I) Applicants contend that the Pay Commission recommendations do not distinguish pensioners and, therefore, their pensions are to be revised along with others. Respondents have cited OM's issued by the G.O.I wherein it was axiomatically stated that the pension of the pensioners retired on grounds of compulsory retirement should not be revised, as per the Pay Commissions recommendations.

II) Applicant has cited verdict of this Tribunal in OA 262/2018 [**A.V.Varma v. Union of India & Others**, decided on 29.11.2018] dealing with a similar issue, which was allowed by referring to the observation of the Hon'ble High Court of Kerala in **Director Accounts (Postal), Kerala Circle, Thiruvananthapuram-1&3 others v N. Karthikeyan Pillai, Postal Assistant (Retd)** in OP (CAT) No.108/2016(Z), dated 31.07.2015. Respondents moved the Hon'ble High Court, against the orders of this Tribunal in the cited OA and stay was granted on 23.4.2019 in IA No. 1/2019 in WP No. 5320/2019. Further, respondents have also filed SLP (C) No 6726/2017 against the said orders of the Hon'ble High Court of Kerala and the same is pending. Based on these developments, when a similar relief was sought in OA 429 of 2019, this Tribunal has disposed of the said OA on 14.6.2019 by directing the respondents to decide based on the decisions of the Hon'ble Apex Court and Hon'ble High Court. Respondents and the respondents counsel not bringing these facts to the notice of the Tribunal in the present OA is surprising since the said orders were issued when the very same respondents have approached the higher judicial forums.

III) In view of above developments, without going into the merits of the OA, respondents are directed to dispose of the representations of

the applicant, based on the outcome in the cases pending before the superior judicial forums referred to.

IV) With the above direction, OA is disposed of. Parties to bear their own costs.

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

Dated, the 27th day of August, 2019

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