

o;? CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

Original Application No.180/00052/2014

Tuesday this the 14th day of October 2014

CORAM:

HONOURABLE Mr.U.SARATHCHANDRAN, JUDICIAL MEMBER

K.Varghese,  
Superintendent of Central Excise (Retd.),  
H.No.KP XIII/357, Kizhakeparambil,  
Chacko Garden Lane, U.C.College P.O.,  
Aluva ..683 102.

...Applicant

(By Advocate Mr.C.S.G.Nair)

Versus

1. Pay & Accounts Officer,  
Central Excise, Central Revenue Buildings,  
I.S.Press Road, Cochin .. 682 018.
2. Chief Controller,  
Central Pension Accounting Office,  
Trikoort II Complex, Bhikajicama Place,  
R.K.Puram, New Delhi .. 110 066.
3. Commissioner of Central Excise,  
Central Revenue Buildings,  
I.S.Press Road, Cochin .. 682 018.
4. Chief Commissioner of Central Excise,  
Central Revenue Buildings,  
I.S.Press Road, Cochin .. 682 018.
5. Union of India  
represented by its Secretary,  
Department of Pension & Pensioners' Welfare,  
South Block, New Delhi ..110 001.
6. Joint Director,  
Central Government Health Scheme,  
Pattom, Thiruvananthapuram .. 695 002.

...Respondents

(By Advocate Mr.Pradeep Krishna,ACGSC)

This application having been heard on 19th September 2014 the  
Tribunal on 14th October 2014 delivered the following :-

ORDER

HONOURABLE Mr.U.SARATHCHANDRAN, JUDICIAL MEMBER

Applicant's case is as follows: Applicant is a pensioner who retired on superannuation as Superintendent of Central Excise on 30.4.1987. On the recommendations of the 6th Central Pay Commission (CPC) applicant's pension was revised to Rs.9052/- with effect from 1.1.2006. He is entitled to Rs.9750/- by way of revised pension. He had sent Annexure A-2 to Annexure A-8 representations for inclusion of his widowed daughter in the P.P.O and for grant of Fixed Medical Allowance (FMA). No action was taken by the respondents so far. He prays for the following reliefs :

1. To declare that the applicant is entitled for Rs.9750/- as monthly pension w.e.f 1.1.2006 and all other consequential benefits.
2. To direct the respondents to issue revised P.P.O fixing the monthly pension as Rs.9750/- and disburse the arrears of pension within a stipulated time.
3. To direct the respondents to grant Fixed Medical Allowance to the applicant w.e.f 1.6.2010.
4. To direct the respondents to pay interest on the amount of arrears of pension and Fixed Medical Allowance payable @ 12% per annum.
5. To direct the respondents to include the name of the widowed daughter of the applicant in the P.P.O for the purpose of family pension.
6. Grant such other relief or reliefs that may be prayed for or that are found to be just and proper in the nature and circumstances of the case.
7. Grant cost of this O.A.

2. In the reply statement respondents submitted that the applicant retired on 30.4.1987 during the time of the 4th CPC. At that time the pay scale of the applicant was Rs.2000-60-2300-EB-75-3200-100-3500. The corresponding 5th CPC scale is Rs.6500-200-10500. The corresponding pay band under the 6th CPC is Rs.9300-34800 with grade pay of Rs.4200/- in PB-2. In the case of applicant, the minimum pension at the rate of 50% of sum of the minimum of pay in the pay band and grade pay corresponding to

the pay scale from which he retired ie. Rs.9300-34800 + Rs.4200/- which works out to Rs.8145/- and this has been stepped up to a consolidated pension of Rs.9052/- as per the 6th CPC fitment table corresponding to his 5th CPC basic pension revised pension of Rs.9052/- was authorized vide Annexure R-1. It is also contended by the respondents that there was a revision of pay for the Superintendent of Central Excise from the scale of Rs.6500-10500 to Rs.7500-12000 vide Annexure R-3 applicable only in respect of the Superintendent of Central Excise who are/were in service as on 21.4.2004 and the same benefit is not applicable to the pre 21.4.2004 retirees like the applicant, who was holding the pay scale of Rs.2000-3500. According to respondents, applicant's request for including the name of his widowed daughter in the P.P.O for family pension was not received by the Department. Respondents assure that on receipt of such communication appropriate action will be taken. Similarly, it is stated by the respondents that the undertaking for Fixed Medical Allowance vis-a-vis availing treatment from the nearest CGHS centre has not been received directly either from the applicant or from the Department and on receipt of such undertaking appropriate action to authorize medical allowance would be taken .

3. A rejoinder was filed by the applicant refuting the averments of the respondents.

4. Heard Smt.Chandini, learned proxy counsel for the applicant and Shri.Pradeep Krishna,ACGSC, learned counsel for the respondents. During

the hearing of this O.A, learned counsel for the applicant submitted that in view of the provisions of Rule 10 of the C.A.T (Procedure) Rules, 1987, applicant is confining only to the first relief ie., relief relating to the correct monthly pension and its consequential benefits.

5. Learned counsel for the applicant pointed out that the claim of the applicant in this case is squarely covered by the decision of the Principal Bench of this Tribunal in O.A.No.655/2010, which was confirmed by the Hon'ble High Court of Delhi in W.P.(C) No.1535/2012 and other allied Writ Petitions vide a common judgment on 29.4.2013, a copy of which is produced herein as Annexure A-11. Learned counsel further referred to a common order of this Tribunal in O.A.Nos.715/2012 & 1051/2012 decided on 16.8.2013, a copy of which is produced herein as Annexure A-12. Learned counsel for the applicant relied on yet another decision of this Tribunal in O.A.No.1090/2013 also. According to the learned counsel for the applicant, the ratio in the aforesaid judgments is squarely applicable to the facts of this case also.

6. Learned counsel for the respondents submitted that the Department has adequately taken care of the recommendations of the 6th CPC as adopted by the Central Government and has duly revised pension of the applicant on the basis of the pay band applicable to the Superintendent of Central Excise as applicable to the applicant at the time of his retirement. He submitted that applicant cannot avail of the midway revision occurred in the pay of Superintendent of Central Excise vide Annexure R-3 upgradation of pay scales, as the same is not applicable to the applicant because it is

made clear in Annexure R-3 that the aforesaid upgradation is applicable with effect from 21.4.2004, on which date, the applicant was no longer in service.

7. The midway increase in pay granted to the Superintendants of Central Excise has been taken into account by the VI CPC. Hence whatever pay Superintendants of Central Excise enjoyed at the time of adoption of the 6th CPC recommendations, the same shall be taken as the basis for fixing the applicant's pay also irrespective of the increase that had happened to the pay scales of those officers vide Annexure R-3 with effect from 21.4.2004. 6th CPC recommendations was to pay pension to the pre 1.1.2006 pensioners in such a manner that the pension shall in no case be lower than 50% of the minimum of the pay in the pay band plus grade pay corresponding to the pre-revised pay scales from which the pensioner had retired. True, the applicant retired at the time when 4th CPC was the prevailing standards relating to the pay scales. Thereafter the 5th CPC also came into existence and a pay revision had occurred. Therefore, the corresponding pay band and grade pay has to be determined on the basis of the pay scales applicable to the post at the time of 5th CPC. Therefore, though the applicant had retired in 1987, for the purpose of revision of pension as per VI CPC the pay scale applicable to that post during the operation of the 5th CPC recommendations as accepted by the government has to be reckoned for finding out the pay band that is applicable to him.

8. Therefore, this Tribunal is of the view that since there was an

upgradation of pay scales vide Annexure R-3 with effect from 21.4.2004 in respect of Superintendent of Central Excise from Rs.6500-10500 to Rs.7500-12000, for the purpose of fixing the pension of the Superintendent of Central Excise as per the VI CPC recommendations Rs.7500-12000 has to be reckoned as the corresponding pay scale that was in existence prior to the 6th CPC recommendations. Accordingly, applicant is entitled to a pension not lower than 50% of the minimum of the pay in the pay band plus grade pay corresponding to the pre-revised pay scale of Rs.7500-12000. Therefore, the O.A is allowed to the extent as stated above.

9. Regarding the grievance of the applicant relating to the inclusion of his widowed daughter in the P.P.O for the purpose of family pension and FMA, he may approach the respondents department with a fresh representation to be sent within two months from the date of this order. The respondents shall on receipt of which take appropriate action within three months from the date of receipt of such representation. Ordered accordingly.

(Dated this the 14th day of October 2014)

U.SARATHCHANDRAN  
JUDICIAL MEMBER

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