(2023) 09 CAT CK 0013

In the Central Administrative Tribunal

Case No : Original Application No. 180, 00685 Of 2019

N.J. Innocent APPELLANT

Vs

Union Of India & Others RESPONDENT

Date of Decision : 12-09-2023

Acts Referred:

Citation : (2023) 09 CAT CK 0013

Hon'ble Judges : K. Haripal, Member J

Bench : Single Bench

Advocate : S. Radhakrishnan, S. Ramesh

Final Decision : Allowed

Judgement

K. Haripal, Member J

1. The applicant is a retired Upper Division Clerk from the service of the 3rd respondent. He was born on 1.1.1956. He had commenced service as Lower Division Clerk on 12.2.1981 in Central Ordnance Depot, Delhi Cantonment. Later, he was transferred to Naval Headquarters, Southern Naval Command in July 1998. He was promoted as UDC on 1.9.2014. At the age of 60, he retired on superannuation on 31.12.2015 and became eligible to get pension from 1.1.2016. He has approached the Tribunal raising two fold grievances. Firstly, he was granted pension initially only at the rate of Rs.9990/-; on implementation of the recommendations of the 7th CPC, as per standing instructions that was proposed to be revised to Rs.25,675/-. However, following Annexure A-4 O.M dated 12.5.2017, he was sanctioned pension of Rs.26,000/- by Annexure A-7 revised Pension Payment Order effective from 1.1.2016. The grievance of the applicant is that even though his pension was revised as per the recommendations of the 7th CPC, other retirement benefits like commutation of pension, DCRG, leave encashment etc. were not granted to him.

2. The second grievance is that his annual increment which fell due on 1.1.2016 was also not granted to him on the assumption that he had retired from service

on 31.12.2015.

3. The claims of the applicant have been denied by the respondents.

4. I heard learned counsel on both sides. After having heard counsel on both sides and perusing the records, I am convinced that on both grounds, the applicant is entitled to succeed. Firstly, regarding release of retiral benefits pursuant to grant of Annexure A-7 revised Pension Payment Order, other retirement benefits like DCRG, Leave encashment, commutation of pension etc should have been granted at the same rates. In this connection reliance has been made on Annexure A-6 order of the Principal Bench of this Tribunal in O.A 571 of 2017 dated 17.4.2018 where the applicant was born on 1.1.1956 and retired from service on superannuation on 31.12.2015. Relying on the decision in S.Banerjee v. Union of India [AIR 1990 SC 295], the Principal Bench has granted the benefits. Principal Bench has also considered some other decisions on identical matters like judgment of the Hon'ble High Court of Kerala in Union of India v. George [(2004) (1) ATJ 150], Union of India & Others v. Col.Bhupinder Singh (Retd.) Major, (Writ Appeal No.3897 of 2005) of Karnataka High Court, Union of India and Ors. v. P.S.R Kumar Sinha and Anr [(2006) (2) ALT 354; 2006(3)ALD 57] of Andhra Pradesh High Court. Thus the Tribunal found that the applicant therein is entitled to get benefits under Annexure A-4 O.M.

5. All the above decisions have been rendered basing on the judgment of the Hon'ble Supreme Court in S.Banerjee, quoted supra; the following observations in that decision are very apposite:

" The question that arises for our consideration is whether the petitioner has retired on January 1, 1986. We have already extracted the order of this Court dated December 6, 1985 whereby the petitioner was permitted to retire voluntarily from the service of the Registry of the Supreme Court with effect from the forenoon of January 1, 1986. It is true that in view of the proviso to rule 5(2) of the Rules, the petitioner will not be entitled to any salary for the day on which he actually retired. But, in our opinion, that has no bearing on the question as to the date of retirement. Can it be said that the petitioner retired on December 31, 1985? The answer must be in the negative. Indeed, Mr. Anti Dev Singh, learned counsel appearing on behalf of the respondents, frankly conceded that the petitioner could not be said to have retired on December 31, 1985. It is also not the case of the respondents that the petitioner had retired from the service of this Court on December 31, 1985. Then it must be held that the petitioner had retired with effect from January 1, 1986 and that is also the order of this Court dated December 6, 1985. It may be that the petitioner had retired with effect from the forenoon of January 1, 1986 as per the said order of this Court, that is to say, as soon as January 1, 1986 had commenced the petitioner retired. But, nevertheless, it has to be said that the petitioner had retired on January 1, 1986 and not on December 31, 1985. In the circumstances, the petitioner comes within the purview of paragraph 17.3 of the recommendations of the Pay Commission. "

6. In the circumstance, having granted him revised pension at the rate of Rs.26,000/-, the applicant is entitled to get all the consequential retirement benefits, including arrears of pension.

7. The second question is regarding grant of annual increment which fell due on 1.1.2016, that is on the following day of his superannuation. He had acquired the previous increment on 1.1.2015. The specific claim of the applicant is that having rendered one full year service from 1.1.2015 to 31.12.2015, he is entitled to get next increment on 1.1.2016. This question has been finally settled by the Hon'ble Supreme Court in Director (Admn. And HR) KPTCL & Ors. v. C.P.Mundinamani & Ors (AIR 2023 SC 1956). The Supreme Court, after going through judgments rendered by different High Courts, has held that once an employee has earned the increment on completing one year service he cannot be denied the benefit of such annual increment on his attaining the age of superannuation and/or the day of retirement on the very next day.

8. That means, the applicant is entitled to get annual increment on 1.1.2016. Held accordingly. Annual increment fell due on 1.1.2016 shall be granted.

9. In the result, the Original Application is allowed. The respondents are directed to rework his last pay and grant him all retiral benefits including arrears of pension as held above within a period of 90 days from the date of receipt of a copy of this order. No costs.