

(2012) 12 DEL CK 0229

In the Delhi High Court

Case No : Writ Petition (C) 667 of 2012 and CM 1449 of 2012

Prabhu Lal

APPELLANT

Vs

UOI and Others

RESPONDENT

Date of Decision : 14-12-2012

Acts Referred:

Citation : (2013) 1 LLJ 560

Hon'ble Judges : Siddharth Mridul, J; Badar Durrez Ahmed, J

Bench : Division Bench

Advocate : Deepali Gupta, for the Appellant; Prasouk Jain for Mr. B.V. Niren for the Respondent No. 1 and Mr. V.P. Uppal for the Respondent No. 2, for the Respondent

Final Decision : Disposed Off

Judgement

Badar Durrez Ahmed, J.—This writ petition is directed against the order dated 21.10.2011 passed by the Central Administrative Tribunal, Principal Bench, New Delhi in OA 964/2011. We need not go into the details of the controversy and we only need to examine the claim of the petitioner with regard to the commutation of pension that the petitioner had sought prior to his retirement as also the date from which the deductions would be deemed to take effect from.

2. The learned counsel for the petitioner initially submitted that her case fell within provisos (a) and (b) to Rule 6(1) of the CCS (Commutation of Pension) Rules, 1981. However, the learned counsel for the respondent No. 2 submitted that the case of the petitioner was covered by proviso (c) and not by provisos (a) or (b) of the said Rules. We are in agreement with the learned counsel for the respondent No. 2 that the case of the petitioner falls within proviso (c) to Rule 6(1) of the said Rules. This is so because the petitioner's case falls under Rule 13(3) of the said Rules. That being the case, the approach adopted by the respondent No. 2 in seeking recovery of the excess pension amount from the date of superannuation till the date the commuted pension was paid to the petitioner, would be in order. That part of the order passed by the respondent No.

2 and which has been confirmed by the Tribunal need not be disturbed. However, what requires consideration is the fact that the computation of the commuted value of pension has itself not been done correctly. According to the learned counsel for the respondent No. 2, as indicated in the counter-affidavit, the computation was done in terms of Annexure R-1 to the said counter-affidavit which is also to be found at page 78 of the paper book. The table that is mentioned in Annexure R-1 pertains to commutation values for a pension of Rupee 1 per annum and it is effective from 1st March, 1971. It is an admitted position that the age at the next birthday of the petitioner on superannuation would be 61 years and, therefore, the commutation value expressed as a number of the year's purchase would be 9.81.

3. It is also an admitted position that the petitioner would be drawing pension of Rs.11,645/- per annum on his superannuation. Since he had asked for 40% commutation, the value would be Rs.4,658/- per month. Therefore, the lump sum amount that would be payable to the petitioner would be Rs.4,658/- x 12 x 9.81, which comes to Rs.5,48,340/-. However, what has been computed by the respondent No. 2 is the figure of Rs.4,58,012/- on the basis of a commutation value computed with reference to a table which became effective only from 2nd September, 2008. This is incorrect. Since the commutation value is to be computed on the date on which the petitioner superannuated, the table which was effective from 1st March, 1971 would be applicable and not the table which became effective from 2nd September, 2008. Therefore, the lump sum amount is computed at Rs.5,48,340/- and the interest for three years at the rate of 8% per annum thereon would come to Rs.1,31,601/-. This amount, less the amount already paid, shall be paid to the petitioner by the respondent No. 2 within four weeks. The petitioner accepts this position and so does the respondent No. 2. We also clarify that the deductions from pension would be applicable for a period of 15 years with effect from 01.03.2007.

With these observations and directions, the writ petition stands disposed of. All pending applications also stand disposed of.