
(2002) 02 J&K CK 0004
In the Jammu And Kashmir High Court
Case No : Civil Writ Petition No. 781 of 2000

Raghu Nath Kaul	Vs	APPELLANT
Union of India and others		RESPONDENT

Date of Decision : 04-02-2002

Acts Referred:

Central Civil Services Commutation of Pension Rules 1981 — Rule 10
Constitution of India, 1950 — Article 309

Citation : (2002) 4 SCT 500

Hon'ble Judges : Tejinder Singh Doabia, J

Bench : Single Bench

Advocate : N. Kotwal, P. L. Koul, Advocates appearing for the Parties

Judgement

Tejinder Singh Doabia, J.—Facts necessary for the disposal of this writ petition be serialized :

- i. the petitioner on attaining the age of superannuation retired on 31st of March, 1978;
- ii. the petitioner commuted his pension at a fixed amount of Rs. 150/. This was out of his original pension of Rs. 475/.
- iii. later on there was increase in the pension.

2. The petitioner submits that when there was increase in the pension there should have been a corresponding increase in the commuted pension

also. This is the basic grievance of the petitioner. It is urged that when there was increase in the pension and when this increase was with

retrospective effect i.e. from 31st of March, 1978, then there should have been corresponding increase in the commuted value of the pension also.

For this basic reliance is being placed on Rule 10 of the Central Civil Services Commutation of Pension Rules, 1981. Rule 10 on which reliance is

being placed reads as under

Retrospective revision of final pension. An applicant who has commuted a fraction of his final pension and after commutation his pension has been

revised and enhanced retrospectively as a result of Government's decision, the applicant shall be paid the difference between the commuted value

determined with reference to enhanced pension and the commuted value already authorized. For the payment of difference the applicant shall not

be required to apply afresh :

Provided that in the case of an applicant who has commuted a fraction of his original pension not exceeding rupees one hundred after being

declared fit by a Civil Surgeon or a District Medical Officer and as a result of retrospective enhancement of pension, he becomes eligible to

commute an amount exceeding one hundred rupees per mensem, he shall be allowed the difference between the commuted value of one hundred

rupees per mensem and the commuted value of the fraction of the original pension without further medical examination. The commutation of any

further amount beyond rupees one hundred per mensem shall be treated as fresh commutation and allowed subject to examination by a Medical

Board.

3. A plain reading of the above Rule would make it apparent :

i. that in case there is revision in the pension then benefit of this is to be given in the commuted value also;

ii. that for getting this benefit a person who has commuted a fraction of his final pension need not apply;

iii. that in case of a person who has commuted a fraction of his original pension to the extent of Rs. 100/ after having being declared fit by a Civil

Surgeon, then he can be allowed further benefit of medical examination;

This is so provided in the proviso.

4. As the petitioner had commuted his pension to the extent of Rs. 150/, his case would be covered by the main provision. If this be the situation,

then the argument put across by the respondents cannot be sustained. The respondents would accordingly recalculate the amount and the payment

of the differential computation amount be paid to the petitioner. Let this be done within a period of three months from the date a copy of this order

is made available by the petitioner to the respondent authorities. Any amount of pension which the petitioner has received and is required to be adjusted be now adjusted. In case payment is not made within the above stipulated period. then the petitioner would be entitled to interest at the rate of 9%. The interest component would be paid by the person on whose account delay occurs.