

**CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD (TELANGANA)
NO. 5-10-193, 1ST FLOOR, HACA BHAVAN, HYDERABAD - 500004**

Order Sheet

Item no.: 19
O.A./499/2020 (TELANGANA)
[RECOVERY]
[SENIOR CITIZEN]
Court No.: 2

No of Adjournment: 22

Order Dated: 11/08/2023

**I KRISHNA RAO
Vs
SURVEY OF INDIA**

For Applicant(s) Advocate : KRKV PRASAD

For Respondent(s) Advocate : V VINOD KUMAR, SR PC FOR CG

Order of The Tribunal

Heard Sri KRKV. Prasad, learned counsel for the applicant.

Learned counsel for the applicant commenced arguments by stating that the applicant's pay was revised after nearly 30 years on the eve of his retirement, and going back to the time from 01.04.1988 to 01.07.1991, 01.01.1996 to 01.01.2005, 01.01.2006 to 31.12.2015 and 01.01.2016 to 30.04.2018. The applicant's counsel stated that the above pay revision resulted in a recovery of Rs.1,61,055/- from the applicant's pensionary benefits which is in violation of extant law, as it has been made on the eve of his retirement for a period which goes back to 30 years almost during the inception of the service. In support of his arguments, the applicant's counsel has drawn my attention to the latest Hon'ble Supreme Court judgment dated May 2, 2022 in Civil Appeal No.7115/2010 in the matter of Thomas Daniel vs. State of Kerala & others, particularly, para14 thereof. The applicant's counsel contends it covers his applicant's case.

Sri V. Vinod Kumar, learned Senior Panel Counsel vehemently opposed the submissions of the applicant's counsel by stating that the applicant belongs to Group-B Service and not Group-C or D and, he also has given an undertaking to the effect that this amount of Rs. 1,61,055/- is to be recovered from Gratuity. In support of his argument, respondents' counsel drew my attention to the Hon'ble Supreme Court judgement dated 29th July, 2016 in Civil Appeal No.3500/2006 in the matter of High Court of Punjab and Haryana & others vs. Jagdev Singh particularly, para10 and para12 of the judgement.

The applicant's counsel opposed the submissions of respondents' counsel stating that the judgment of Rafiq Masih and the consequent DoPT guidelines are irrespective of the Class to which the Government Servant belongs and it is a matter of principle that on the eve of the retirement, no amount is ought to be recovered from the government employee. Also the applicant's counsel stated that there is no estoppel against any illegality and even if an undertaking has been given, the word undertaking is misnomer as it has been given under duress after retirement by the applicant who has no by other choice but to comply with this requirement giving undertaking as otherwise he would not be getting his pensionary benefits. Therefore, no reliance can be placed on this undertaking which has been obtained under these circumstances.

Learned counsel for the respondents stated that there are also latest guidelines issued by the DoPT on the subject which would be produced by the next date of hearing. Learned counsel for the respondents drew attention to para15 of the judgement relied upon by the applicant's counsel and says that an attempt of recovery of the said increments after passage of ten years of retirement is unjustified. To this applicant's counsel stated it is not just 10 years

and it is 15 years in connection with the Rafiq Masih's case.

Learned counsel for the respondents requested for four weeks' time to file written arguments. It is allowed.

List the matter on 08.09.2023.

B Anand
Member (A)

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