

MAHARASHTRA ADMINISTRATIVE TRIBUNAL

NAGPUR BENCH NAGPUR

ORIGINAL APPLICATION NO.98/2011

Akhil Kumar Motilal Agrawal
R/o Opp. Ramkrushna Ashram Library,
Dhantoli, Nagpur. ----- **Applicant.**

Versus

1. The State of Maharashtra,
through its Secretary,
Department of Irrigation,
Mantralaya, Mumbai -32
2. Accountant General Maharashtra
(Accounts and Entitlement) II,
Civil Lines, Nagpur.
3. The Executive Engineer, Irrigation
And Hydro Electronic Project Investigation
Division, Nagpur. ----- **Respondents.**

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1. Shri N.R. Saboo , Adv. for the Applicant
 2. Smt. M.A. Barabde, P.O. for the respondent Nos. 1 and 2.
 3. Shri S.G. Jagtap, Adv. for R/3.
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CORAM :- Hon'ble Shri Justice A.P. Deshpande :
Vice - Chairman

DATED :- 8th February , 2013.

ORAL ORDERPer Vice-Chairman.

Shri N.R. Saboo, the ld. counsel for the applicant, Smt. Barabde, the ld. P.O. for the R/1 and 2 and Shri Thakre, Adv. holding for Shri Jagtap, the learned counsel for the R/3

2. On a oral request made by Shri Thakre, Adv. holding for Shri Jagtap, ld. counsel for the R/3, permission is granted to place on record a copy of the option exercised by the applicant in tune with Clause 8.2 of the G.R. dt. 30th October, 2009. The document produced is taken on record.

3. Heard.

4. The applicant on attaining the age of superannuation retired from service on 31/8/2006. . At the time of the applicant's retirement, he was holding the post of

Sectional Engineer and had rendered more than 33 years of qualifying service. After the retirement of the applicant, pension payment order is issued by the Accountant General on 20th November, 2006. The applicant is held entitled to a given amount of pension. The applicant was paid the commuted pension amount as well. The said pension payment order goes to fix the pension of the applicant which is herein after referred to as unrevised pension.

5. The Govt. vide its Resolution dt. 30th October, 2009 carried out modifications in the Maharashtra Civil Services (Pension) Rules, 1982, known as revision of Pension/Family pension , post 1st January, 2006 Pensioners/Family pensioners. Clause 8.2 of the said Resolution is relevant for adjudicating the dispute involved in the present O.A.

Para 8.2 :-

" In the case of those pensioners, who have retired on or before 27th February, 2009, will be eligible for payment of commutation of pension based on pre-revised pay/pension as per pre-

revised rates of commutation value. Such pensioners shall have following two options to commute the amount of pension that has become additionally commutable on account of retrospective revision of pay/pension. The option once exercised is final.

- (a) Without commuting the additional amount as per revised table of commutation value the pensioner can opt for revised basic pension minus commuted amount of unrevised pension.

OR

- (b) The pensioner can opt for 1/3 commutation of enhanced basic pension (revised basic pension minus unrevised basis pension) as per revised table of commutation value. The pensioner will be eligible for commuted value at the time of exercising this option for his age next birthday based on the date of original application as per following formula :-----".

6. Corrigendum was issued to the G.R.dt. 30th October, 2009, which stipulated the cut off date for exercising option , as was made available under the G.R. dt. 30th October, 2009. Modification to para 8.2 is by appending the following sentences :-

" The option should be submitted by the Govt. servant to the Head of Department /Office from which he has retired before 31/3/2010. If the option is not submitted within the stipulated time, the calculation would be done according to the option 8.2 (a)."

7. It is undisputed that the applicant had already received the commuted value as per the unrevised pension. The applicant's pension was revised on 4/8/2010. It is an admitted position that the applicant had not exercised the option as was required by Clause 8.2 of the G.R. and as such the calculation was made according to option 8.2. (a).

8. By filing the present O.A., the applicant is claiming 1/3 commutation of enhanced basic pension, as was permissible under Clause 8.2 (b). According to the applicant, the respondents have adopted too technical approach in dealing with the cases of pensioners. The submission is that the authorities concerned need to be pragmatic and ought not to ^{have} ~~be~~ adopted a pedantic approach

in such matters. Per contra, according to the respondents, when the pensions/family pensions are revised, cases of thousands of employees are to be reworked and finalised. With a view to timely finalise the pension revision, options are made available to the employees which contains a deeming fiction that in case the option is not exercised before the given date, it shall be assumed that the employee has obtained the option 8.2 (a). It is submitted that the present applicant exercised the option after his pension was revised i.e. on 4/8/2010, when as a matter of fact the applicant was expected to exercise the option by 30/3/2010. On account of failure on the part of the applicant to exercise the option, the revised pension has been fixed under Clause 8.2 (a). In that view of the matter no fault can be found with the respondents in revising the pension of the applicant by taking recourse to Clause 8.2 (a). If belated requests for option is to be entertained, the same would entail in long drawn reopening of cases and further delay in finalisation of the

pension/family pension cases. Having regard to the provision of the G.R. dt. 30th October, 2009 r/w corrigendum dt. 15/12/2009, the applicant's prayer for permitting him to commute 1/3 amount of the enhanced basic pension, cannot be granted. In the result, as there is no merit in the O.A., the same stands rejected, however with no order as to costs.

Skt.

(A.P. Deshpande)
Vice-Chairman.