

CAT Reserves judgment in Full Pension on Superannuation after 10 years of service by Pre 2006 Pensioners

Details of arguments in CAT Delhi on 13-1-2016

Our Review Application to cover full pension after 10 years on superannuation or absorption in PSUs/Autonomous Bodies was taken up by the CAT Bench on 13th afternoon.

The GOI Advocate made the following points which were duly countered by our Advocate:

(i) Since the verdict dated 21-4-2015 was based on OA 1165/2011 as the lead case, which did not seek pro-rata pension after 10 years on superannuation or absorption in PSUs/Autonomous Bodies, this issue can not be raised now. Also, as per Apex court verdicts, if a verdict is silent on any particular prayer, it is assumed that the same is not accepted by the Court. He sought time to produce relevant rulings for which the Bench said that this should be done within 2 days beyond which they would not wait.

Our Advocate effectively countered this contention by pointing out that:

*** Although OA 1165 initially did not cover this plea of full pension after 10 years on superannuation/absorption in PSUs, the other two OAs filed subsequently, specifically covered this aspect. And since all the 3 OAs were clubbed together in the verdict dated 21-4-2015 for a common verdict, this prayer can not be ignored;**

*** Notwithstanding this, it was brought to the notice of the Bench that as early as in 2013 (much before the verdict dated 21-4-2015) while filing our Rejoinder, it was specifically sought to amend our prayer in OA 1165/2011 to include this aspect also. Since GOI did not object to it at that time, the same is deemed to have been amended and this issue can not be raised now.**

*** In any case, since all 3 OAs were clubbed together in a common verdict and this aspect was missed, it is well within the right of the Applicants to seek a Review of the order.**

(ii) GOI Advocate mentioned that since this aspect was not raised in OA 655/2010 as mentioned in the verdict dated 1-11-2011, while seeking modified parity, this aspect can not be raised now.

Our Advocate countered this by pointing out that:

*** While considering the Writ of S 30 Pensioners Association seeking full parity with post 1-1-2006 pensioners, Delhi High Court remanded the case back to CAT with the direction to ignore paras 1-11 of verdict dated 1-11-2011 in our case (which formed the basis of adverse verdict in S 30 case also) and consider the matter afresh. As a result, the Full Bench allowed their plea of full parity in pension between pre and post 2006 pensioners, subject to the condition that the pension of a pre 2006 retiree from the higher grade can not get a lower pension than the maximum pension of lower grade post 2005 retiree. He placed on record a copy of this verdict. Hence the reference of GOI to CAT verdict dated 1-11-2011 was no longer relevant.**

*** The fact remains that the issue of denial of full pension after 20 years on VR and 10 years on superannuation/absorption in PSUs etc is covered by the same common instructions which have been quashed by Full Bench of the Tribunal and which decision has been upheld upto the highest level of Supreme Court while dismissing Curative Petition against CAT verdict dated 1-11-2011 in OA 655/2010. Consequently, discrimination between VR pensioners getting the benefit but not pensioners after superannuation/absorption on par with post 2005 retirees can not be justified.**

(iii) GOI Advocate again mentioned that they are going to file a Writ against earlier verdict dated 21-4-2015, to which the Bench reiterated that unless a stay is granted it does not matter. *(Incidentally, as indicated in my mail of 6-1-2016, we have already filed a Caveat in Delhi High Court on 8-1-2016 to forestall any ex-parte stay in the matter).*

The Bench has since reserved the verdict which we hope to be out very soon.

Regards,

Pratap Narayan