

**HON'BLE SMT. JUSTICE T. MEENA KUMARI
AND
THE HON'BLE SRI JUSTICE G. CHANDRAIAH**

WRIT PETITION No. 16219 of 2007

Date 31-7-2007

Between:

**The District Treasury Officer,
Karimnagar District and others.**

**PETITIONERS
AND**

Mohd. Dule Khan

.....RESPONDENT

.....

**THE HON'BLE SMT. JUSTICE T. MEENA KUMARI
AND
THE HON'BLE SRI JUSTICE G. CHANDRAIAH**

WRIT PETITION No.16219 of 2007

ORDER: (per Smt. T.Meena Kumari,J)

-

The petitioner-Department filed the present writ petition seeking a writ of Certiorari to call for the records relating to and connected with the order dated 24.10.2006 in O.A. No. 1669 of 2005 on the file of the A.P. Administrative Tribunal, Hyderabad and to quash the same by holding it as illegal, arbitrary and without jurisdiction.

The brief facts of the case are that the 1st respondent herein retired from service as Deputy Collector on 1.1.1987. Thereafter, the authorities sanctioned pension to him at Rs. 1255/- per month and commutation orders were issued by the Accountant General on 28.2.1989 commuting the value of pension at Rs. 50,208/- and the same was also paid to him. In the same order, the Accountant General directed that the pension of Rs. 1255/- be paid to him with effect from 20.12.2002. The 1st respondent thereafter submitted a representation to the authorities to restore the pension with effect from the year 1989. However, the said application was rejected on 16.12.2002. The respondent further alleged that as G.O. Ms. No.44, dated 19.2.1991, was issued subsequent to the commutation of his pension, the same cannot be applied to him since orders have been passed by the Accountant General, A.P., Hyderabad on 28.2.1989 granting full pension and commutation of pension.

The Department filed counter filed before the Tribunal contending that while issuing the Commutation orders on 28.2.1989, it has been

specifically mentioned therein that the commuted value of pension will be restored with effect from 20.12.2002 as per the rules in force at that time. However, since G.O. Ms. No.44, dated 19.2.1991 was issued subsequently, the respondent is entitled to the commutation of pension from August, 2004 and not from 20.12.2002.

According to G.O. Ms. No.44, dated 19.2.1991 issued by the Government, the Government adopted uniform procedure regarding restoration of pension superceding all other earlier orders of restoration of commuted value of pension stating that the commuted portion of pension is to be restored after expiry of fifteen years from the date of retirement, if the communication was simultaneous with retirement. In all other cases, where the date of commutation is subsequent to the date of retirement thereby causing a time gap between the retirement and commutation, the restoration would take place only after expiry of fifteen years from the date of commutation.

Admittedly, in the instant case, the Accountant General has passed orders on 28.2.1989 granting commuted value of pension from 20.12.2002 as per the prevailing rules at that time. Since G.O. Ms. No.44, dated 19.2.1991 was issued by the Government subsequently, the same cannot be made applicable to the case of the 1st respondent. The Tribunal, taking all these aspects into consideration rightly held that the said G.O. cannot be applied to the case of the 1st respondent herein. It accordingly directed the authorities to restore the full pension to the applicant with effect from 20.12.2002 in accordance with the orders issued by the Accountant General on 28.2.1989 within a period of four weeks from the date of receipt of a copy of this order.

We, therefore, do not find any illegality or irregularity in the order of the Tribunal warranting interference.

The writ petition is devoid of any merits and the same is accordingly dismissed. No costs.

(T. MEENA KUMARI,J)

Date: 31st July, 2007

(G. CHANDRAIAH,J)

pnb