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**(2018) 01 CAT CK 0006**

**Central Administrative Tribunal Mumbai, Bench**

**Case No:** Original Application No. 36 Of 2016

Dilip Gangaram Bidaye

APPELLANT

Vs

Union of India And Ors

RESPONDENT

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**Date of Decision:** Jan. 15, 2018

**Acts Referred:**

- Administrative Tribunals Act, 1985 - Section 19

**Hon'ble Judges:** Ravinder Kaur, J

**Bench:** Single Bench

**Advocate:** R. G. Panchal, D. A. Dube, V. S. Masurkar

**Final Decision:** Disposed off

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### **Judgement**

1. The present OA has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

8(a). This Hon'ble Tribunal be pleased to quash and set aside the impugned order bearing the date as 26.03.2015 (Annexure -A1) and further be

pleased to direct the Respondent No.3 and 4 to issue a Certificate to the applicant in terms of Para No.4 of OM No.45/73/97-P&P(G) dated 2.7.1999;

(b). This Hon'ble Tribunal be pleased to direct the Respondent No.1 and 2 to act in terms of Para 3(a) of OM No.45/73/97-P&P(G) dated 2.7.1999

and release the Dearness Relief on pension and pay the arrears on account thereof.

(c). This Hon'ble Tribunal be pleased to decide this Original Application finally at the stage of admission, considering the gravity of pension related issue.

(d). Cost of this Application may kindly be provided;

(e). Any such other and further relief may kindly be passed in favour of the applicant.

2. It is the claim of the applicant that he was initially appointed on 04.04.1984 as Telephone Operator, Bombay Telephone under respondent No.1. On

01.11.1998, he was permanently absorbed in MTNL as Telephone Operator. The initial pay of the applicant came to be fixed at pay scale of Rs.6700-

220-10000. The applicant opted for pro-rata pension which was then fixed at Rs.1275/-. It is stated that this pension was fully ignored while doing the

pay fixation of the applicant in absorbed post. It is also claimed that he is entitled to dearness relief on his pension in accordance with OM dated

02.07.1999 which was brought into effect w.e.f. 18.07.1997 and he is required to submit a certificate to respondents Nos.1 & 2 which has to be issued

by the respondents Nos.3 & 4 in terms of para 4 of the OM dated 02.07.1999.

3. The applicant has challenged the letter dated 26.03.2015 addressed to All Senior Manager (C&W), MTNL, Mumbai by Senior Manager (FC),

MTNL, Mumbai. The relevant portion of which is reproduced as follows:-

“Request has been received from MTNL CDA pensioners Association for issue of certificate enabling them dearness relief on pension as per GID

(2) below rule 55A of CCS Pension Rules. In the case of C & D absorbees in MTNL, in no case the pay of the absorbee was fixed at minimum of

the pay scale in which he/she has been initially re-employed on his/her retirement from the Central Government.

Accordingly, if any such request is received from the absorbees, suitable reply stating that no such certificate could be issued as there pay has not

been fixed at minimum of the pay scale of the post in which he/she had/had been initially re-employed after his retirement from the Central

Government.

4. Shri V.S. Masurkar, learned counsel for the respondents Nos.3 & 4 has submitted that in this letter itself it is clearly mentioned that if any such

request is received from the absorbees, suitable reply could be issued. However, in the present case, the applicant had not filed any such

representation.

5. Learned counsel for the applicant has submitted that he made representation i.e. Annexure A-8 at page 25 of the OA. It is observed that this

undated representation is addressed to A/O CASH (P&A HQ-II), 5th Floor Telephone House, Dadar (West), Mumbai - 400 028 and received in

the office of Deputy Manager (A/T), NT, MTNL, Mumbai on 03.03.2015. Shri Masurkar, learned counsel for the respondents Nos.3 & 4 has

submitted that A/O CASH is not the Competent Authority to deal with this issue and thus the applicant should have addressed the representation to

the General Manager, MTNL, Mumbai.

6. In the circumstances, the applicant is directed to make a fresh representation to the General Manager, MTNL, Mumbai with regard to proper

fixation of his pension within a period of two weeks with a copy to respondent No.3. Respondent No.1 is directed to dispose of it within a period of

eight weeks thereafter vide passing a reasoned and speaking order in accordance with law without being influenced by the observations made in the

letter dated 26.03.2015 (Annexure A-1).

7. The order so passed shall be then communicated to the applicant at the earliest and he will be at liberty to approach the appropriate forum, in case

his grievance still persists.

8. With the above directions, the OA is disposed of. No order as to costs.