

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1676/2001

New Delhi this the 5th day of June, 2002.

HON'BLE MR. SHANKER RAJU, MEMBER (JUDICIAL)

Shri Babu Singh Yadav,  
Ex. Station Master,  
R/o Qr. No.174-C,  
Railway Hospital Colony,  
Kasganj.

-Applicant

(By Advocate Shri B.S. Maine)

-Versus-

1. Union of India through  
the General Manager,  
North-Eastern Railway,  
Gorakhpur.

2. The Divisional Railway Manager,  
North Eastern Railway,  
Izatnagar.

-Respondents

(By Advocate Shri Rajinder Khatter)

O R D E R (ORAL)

By Mr. Shanker Raju, Member (J):

Heard the parties. Applicant has taken resort to the Full Bench decision of this Tribunal in Venkat Ram Rajagopalan v. Union of India & Ors., 1997-2001, ATFBJ 50, wherein it has been held that the Government servant who retires in the afternoon of 31.3.95 is deemed to have been effectively retired from service w.e.f. 1.4.96. The learned counsel Shri Maine stated that the applicant who retired on superannuation in the afternoon of 31.12.95 should be deemed to have been effectively retired with effect from 1.1.96 and in that event he would be entitled for the revised pensionary benefits in accordance with the recommendations of the Fifth Central Pay Commission and the decision of the respondents dated 25.1.2001 is not legally sustainable. Shri Maine further placing reliance on the Full Bench decision of this Tribunal in Ganga Ram & Another v. Union of India & Ors., 1991-93 ATFBJ 103 contended that

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reference has been answered by observing that unless a decision of the Tribunal is reversed or modified or set aside by the appellate Court the same remains effective. In this view of the matter it is stated that as the decision of the Full Bench in Venkat Ram Rajagopalan (supra) has only been stayed and the matter has been made Rule DB by the Bombay High Court would not preclude this Tribunal to follow the same and the judgment remains effective till it is reversed or modified.

2. The learned counsel for the respondents contended that the writ petition filed against the Full Bench decision of the Tribunal has been made Rule DB and stayed the operation of the order, the relief of the applicant shall be made subject to the final outcome to be arrived by the High Court. Further placing reliance on Union of India v. P.N. Menon, 1994 (2) SLR 335 it is stated that the cut off date which is not either arbitrary or irrational cannot be made subject matter of judicial review before this Tribunal. It is also stated by the learned counsel for the respondents that the Full Bench decision in the case of Ganga Ram (supra) has also been stayed by the High Court but the same has not yet been modified or reversed.

3. I have carefully considered the rival contentions of the parties and perused the material on record. It is not disputed that in the decision of the Full Bench the Government servant who retires in the afternoon of 31.3.95 has been deemed to have been effectively retired from service w.e.f. 1.4.95 and on the same corollary applicant seeks in this OA to declare him

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effectively retired from service w.e.f. 1.1.96 to enable him to get the benefit of revised pay scale and accordingly the pensionary benefits. The Full Bench in Ganga Ram's case (supra) has held that unless the decision of the Tribunal, i.e., Full Bench, is set aside or reversed or modified by the appellate Court the same remains effective and to be followed. Further in a Full Bench decision in Rajagopalan's case (supra) it has been held that mere a stay order passed by the High Court will not preclude the Tribunal to follow the same unless the same is set aside, modified or reversed. In this view of the matter as the Full Bench decision is binding on me and the decision in Full Bench in Rajagopalan's case (supra) has not been reversed or modified the same holds the field and is effective to be applied in the facts and circumstances of the present case.

5. In the result and having regard to the reasons recorded above, OA is allowed. The impugned order is quashed and set aside. Respondents are directed to treat the applicant as effectively retired w.e.f. 1.1.96 and thereafter to revise the retiral benefits of the applicant in accordance with the recommendations of the Fifth Central Pay Commission, within a period of three months from the date of receipt of a copy of this order. No costs.

*S. Raju*

(Shanker Raju)  
Member (J)

'San.'