

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

R.A.NO.129/2001
IN
O.A.NO.2174/99

New Delhi, this the 31 day of October, 2001

Hon'ble Shri S.A.T. Rizvi, Member (Admn)

Shri Jal Singh (since retired)
Son of Shri Hirdai Singh
Presently residing at House No.159
Gali No.4, Nehru Nagar,
Near Jakhira
New Delhi

..Review applicant
(By Advocate: Shri N.K.Kaushik)

Versus

1. Union of India
through its Secretary
Ministry of Agriculture
New Delhi
2. Directorate of Estate
NG-IV A Section
New Delhi
3. The Secretary
Ministry of Urban Development
Nirman Bhawan
New Delhi

..Respondents

(By Advocate: Shri R.V.Sinha)

O R D E R

In OA-2174/99, this Tribunal had passed the
following order on 16.2.2001:-

"8. In the aforesaid circumstances, I have no hesitation in holding that the entire action taken against the applicant whether by the respondent No.1 or by respondent No.2 suffers from the vice of arbitrariness and deserves to be quashed and set aside. Accordingly, the impugned order dated 11/12.6.1991 and also the letters dated 25.3.1993 and 8.6.1995 are quashed and set aside. The respondent No.1 is directed to pay the entire amount due to the applicant by way of his retiral benefits as expeditiously as possible and, in any event, within a period of three months from the date of receipt of a copy of this Order. The respondent No.2 will be at liberty to

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proceed against the applicant, if so advised, in accordance with law for realisation of the amounts found due to the respondent No.2 and while doing so adequate and full opportunity will be given to the applicant to state his case."

2. By the aforesaid order, the respondent-authority was directed to pay to the review applicant herein the entire amount due to him by way of retiral benefits. However, according to the review applicant, the Tribunal has not passed orders in regard to payment of interest on retiral benefits though a specific prayer to that effect was made in the OA and the matter was stressed during the course of arguments. Hence this Review Application.

3. The learned counsel appearing for the review applicant has submitted that since the Tribunal has not passed any order with regard to the payment of interest, the same should be treated as an error apparent on the face of the record. According to him, settled law on the question of payment of interest in such cases has not been taken into account by the Tribunal.

4. The learned counsel appearing on behalf of the respondents has, at the outset, advanced the plea of limitation by submitting that the explanation given by the review applicant in para F of Grounds spelled out in the RA is totally insufficient and, therefore, the R.A. should be treated as time barred. He has also submitted that the review applicant has not filed any application for condonation of delay either. On merits also, the learned counsel has argued that the plea advanced by the learned counsel for the review applicant that an error

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apparent on the face of record has occurred in this case is untenable. According to him, it was the duty of the applicant to press his plea for payment of interest based on settled law while the matter was under consideration of the Tribunal in the OA. If, as mentioned in the R.A., the aforesaid plea based on settled law was actually pressed as stated above, it will have to be presumed that the Tribunal had considered the said plea and had rejected the same. That same plea cannot be advanced in this R.A. In the circumstances, according to him, there is no mistake apparent on the face of the record, and on this ground also, the R.A. must fail.

5. The learned counsel appearing for the respondents has next relied on State Bank of India Versus Ram Chandra Dubey and Ors., (2001) 1 SCC 73 to advance the plea that if the Tribunal has not passed any order on a specific relief sought in the OA, the same will be deemed to have been rejected by the Tribunal. The relevant paragraph taken therefrom is reproduced below:-

"Whenever a workman is entitled to receive from his employer any money or any benefit which is capable of being computed in terms of money and which he is entitled to receive from his employer and is denied of such benefit can approach Labour Court under Section 33-C(2) of the Act. The benefit sought to be enforced under Section 33-C(2) of the Act is necessarily a pre-existing benefit or one flowing from a pre-existing right. The difference between a pre-existing right or benefit on one hand and the right or benefit, which is considered just and fair on the hand is vital. The former falls within jurisdiction of Labour Court exercising powers under Section 33-C(2) of the Act while the latter does not. It cannot be spelt out from the award in the present case that such a right or benefit has

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accrued to the workman as the specific question of the relief granted is confined only to the reinstatement without stating anything more as to the back wages. Hence that relief must be deemed to have been denied, for what is claimed but not granted necessarily gets denied in judicial or quasi-judicial proceeding. Further when a question arises as to the adjudication of a claim for back wages all relevant circumstances which will have to be gone into, are to be considered in a judicious manner. Therefore, the appropriate forum wherein such question of back wages could be decided is only in a proceeding to whom a reference under Section 10 of the Act is made. To state that merely upon reinstatement, a workman would be entitled, under the terms of award, to all his arrears of pay and allowances would be incorrect because several factors will have to be considered, as stated earlier, to find out whether the workman is entitled to back wages at all and to what extent. Therefore, we are of the view that the High Court ought not to have presumed that the award of the Labour Court for grant of back wages is implied in the relief of reinstatement or that the award of reinstatement itself conferred right for claim of back wages." *(emphasis supplied)*

6. Accordingly, the relief sought by the review applicant by way of payment of interest on retiral benefits cannot be revived through the present R.A. and the relief in question should be treated to have been rejected after due and proper consideration.

7. In the circumstances, the R.A. is rejected without any order as to costs.

S.A.T. Rizvi
(S.A.T. Rizvi)
Member (A)

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