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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. NO.1152/95

New Delhi, this the 17th day of May, 1996

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Shri J.C. Chawla,
s/o Shri Teju Ram,
143, Chander Lok Enclave,
Pitampura,
Delhi.

... Applicant

By Advocate: Snri G.D. Bhandari

Vs.

1. Union of India
through
General Manager,
Northern Railway,
Baroda House,
New Delhi.

2. Divisional Railway Manager,
Northern Railway State Entry Road,
New Delhi.

... Respondents

By Advocate: O.P. Kshatriya

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

This O.A. has been filed by the applicant
Shri J.C. Chawla against the Union of India through
General Manager, Northern Railway and the Divisional
Railway Manager, Northern Railway, New Delhi seeking
certain pension reliefs including adjustment of commuted
portion of pension and payment of interest @ 24 per annum
on amounts indicated in his statement (Annexure A-4)

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from the date of his retirement on 31.12.86 till the date of actual payment.

2. I have heard Shri G.D. Bhandari, learned counsel for the applicant and Shri O.P. Kshatriya, learned counsel for the respondents. Both counsel were heard on the preliminary question of res judicata.

3. The applicant Shri J.C. Chawla has filed an earlier O.A. 553/93 against the same respondents namely Union of India through General Manager, Northern Railway and the Divisional Railway Manager in which he has, inter alia, sought the following reliefs -

(i) To command, direct, order the respondents to re-fix the pay of the applicant, firstly in grade 425-640 w.e.f. 1.5.81 @ Rs.620/- to bring it at par with his juniors in terms of Rule 2018-8-RII and further grant the consequent benefits or re-fixation of pay in next higher grade Rs.550-750 and Rs.700-900 - Rs.2000-3200 and grant him the pay Rs.2375/- in grade Rs.2000-3200, due to him w.e.f. 28.2.85.

(ii) Direct, command, orders the respondents to re-calculate the retirement benefits after so re-fixing the pay and make payment of the arrears thereof with interest @ 18% p.n.

4. It can be seen from the above that the payment of arrears on re-calculation of his retirement benefits with interest had been claimed in O.A.553/93 which is also the subject matter of the reliefs claimed in this

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application. O.A. 553/93 had been disposed of by the Tribunal's order dated 5.4.94. In para 6 of the judgement while allowing the application partially, certain directions were given to the respondents -

- a) to revise the notional pay of the applicant to bring it at par with his juniors and allow him the benefit of increments on pay so fixed till the date of his retirement;
- b) re-calculate his pension and retirement benefits;
- c) payment of arrears on the revised pensionary benefits.

There was a further direction that no arrears shall be paid for the pre-retirement period.

5. It can be seen from the above order of the Tribunal dated 5.4.94 in O.A. 553/93 that while allowing the application partially the payment of interest which was also ^{a relief claimed} ~~made~~ in that O.A. had not been acceded to in the order. On contempt petition No.237/94 filed by the applicant for non compliance of the order dated 5.4.94, the court had further made ^{an} observation "that there is no direction in the Tribunal's order to pay interest on the amount found due on re-calculation."

6. Shri G.D. Bhandari, learned counsel for the applicant confirmed during the arguments that the main relief sought in this application is one of payment of interest on the amounts of **retiral** benefits from the date of applicant's retirement to the date of actual payment. The only question raised during the arguments was that in view of the above facts whether the present application is barred on the principles of res judicata. The Supreme Court in 'The Workmen of Cochin Port Trust, Appellants v. The Board of Trustees of the Cochin Port Trust and another, Respondents (AIR 1978 SC 1283) has held as follows -


“ But apart from the codified law the doctrine of res judicata has been applied since long in various other kinds of proceedings and situations by Courts in England, India and other countries. The rule of constructive res judicata is engrafted in Explanation IV of S.11 and in many other situations also principles not only of direct res judicata but of constructive res judicata are also applied. If by any judgement or order any matter in issue has been directly and explicitly decided the decision operates as res judicata and bars the trial of an identical issue in a subsequent proceeding between the same parties. The principle of res judicata also comes into play when by the judgement and order a decision of a particular issue is implicit in it, that is, it must be deemed to have been necessarily decided by implication, then also the principle of res judicata on that issue is directly applicable. When any matter which might and ought to have been made a ground of defence or attack in a former proceeding but was not so made, then such a matter in the eye of law, to avoid multiplicity of litigation and to bring about finality in it is deemed to have been constructively in issue and, therefore, is taken as decided. ”

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7. Having regard therefore to the specific reliefs claimed in OA 553/93 and the reliefs claimed in this application, it is seen that the prayer for interest had already been made which had not been allowed in the order dated 5.4.94. Therefore, in the circumstances of the case, this application is clearly barred by doctrine of res judicata, as the issue of interest has already been adjudicated upon earlier following the aforesaid decision of the Supreme Court.

8. In the result for the reasons given above, this application is dismissed summarily at the admission stage.


(SMT. LAKSHMI SWAMINATHAN)
MEMBER(J)

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