

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1447/1994

New Delhi, this 17th day of January, 1995.

Shri P.T.Thiruvengadam, Hon'ble Member(A)

Banarasi Lal Pippal  
s/o Shri Khem Chand Pippal  
1185X, Khalsa Nagar  
Opp. block No.6, Dev Nagar  
New Delhi-110 005

.. Applicant

by Shri R. Dayal, Advocate

Versus

Union of India, through

1. Secretary  
Department of Revenue  
Min. of Finance  
North Block, New Delhi

2. The Chief Commissioner of Income-Tax  
Delhi Income-Tax Department  
Central Revenue Building  
IP Estate, New Delhi

.. Respondents

By Shri V.P. Uppal, Advocate

O R D E R

The applicant was removed from service by order dated 18.11.82 (Annexure R-1), He represented for retiral benefits. This has been denied to him by the letter of respondents dated 25.2.94 (Annexure A-7) wherein he has been advised that ~~the~~ Government servant who has been removed from service is not entitled to any pensionary benefits.

2. At the time of argument, the learned counsel for the applicant pressed only for the payment of gratuity. A reference was made to the order by their Lordships of the Supreme Court in Express Newspapers (Pvt.) Ltd. vs. UOI (AIR-1958-SC-578). The learned counsel read from the judgement of the apex court in Bakshish Singh Vs. M/s. Darshan Engg. Works & Ors. as reported in AIR 1994-SC-251 wherein extracts from the Express Newspapers case have been quoted.

3. On a perusal of Bakshish Singh case, I note that prior to the enactment of the Payment of Gratuity Act, 1972, there was no central act to regulate payment of gratuity for industrial workers excepting the Working Journalists (Conditions of service) ~~improvement~~ <sup>service</sup> Provision Act, 1955).

The provisions of this Act, 1955 had come up for consideration in the Express Newspapers case. One of the provisions was that denial of gratuity could be only to the extent of financial loss caused by the misconduct of the employee and no more. There was no provision for forfeiture or dismissal or discharge for misconduct. The contention of the applicant in that case is that such forfeiture should be allowed on dismissal/removal on misconduct was negatived by the apex Court.

4. In the orders of the Supreme Court in Bakshish Singh case certain relevant provisions of the gratuity Act, 1972 have been extracted. One such provision relates to forfeiture of gratuity in certain circumstances. Relating to termination of service, though this provision has been quoted in the order in Bakshish Singh case, I find that this has not been struck down.

5. The learned counsel for the respondents referred to Rule 41 of the Pension Rules, 1972. These are statutory in character. Rule 41 says that Government servant who is dismissed or removed from service shall forfeit his pension and gratuity. It is argued that the applicant was not granted gratuity in view of the above Rule.

6. I note that the relevant provision of payment of Gratuity Act or the Pension Rules have not been challenged in this OA. Hence the consequence arising out of this case can not be interfered with.

7. In the circumstances, the OA is dismissed.  
No costs.

(P.T.Thiruvengadam)  
Member (A)

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