

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

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O.A No. 1308/2000  
T.A No.

Date of Decision 12-4-2001

Sh. Mohinder Paul

..Petitioner

Shri Rajiv Nehru

..Advocate for the petitioner(s)

Versus

UOI through the Secretary  
M/O Communication, Sanchar  
Bhawan, New Delhi

..Respondent

Ms. Anuradha Priyadarshini

..Advocate for the Respondents

Coram:-

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)  
Hon'ble Shri Govindan S. Tampi, Member (A)

1. To be referred to the Reporter or not? Yes
2. Whether it needs to be circulated to other Benches of the Tribunal? No

*Lakshmi Swaminathan*

~~Smt. Lakshmi Swaminathan~~  
Vice Chairman (J)

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

OA 1305/2000

New Delhi, this the 12th day of April, 2001

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman (J)  
Hon'ble Shri Govindan S. Tampi, Member (A)

Shri Mohinder Paul  
S/o Late Shri Karam Chand  
R/o BG-102, Shalimar Bagh (Poorvi)  
Delhi - 110052

...Applicant

(By Advocate : Shri Rajiv Nehru)

V E R S U S

Union of India : Through

The Secretary  
Ministry of Communication  
Sanchar Bhawan  
New Delhi - 110 011.

...Respondent

(By Advocate : Ms. Anuradha Priyadarshini,  
proxy counsel)

O R D E R (ORAL)

By Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman (J)

This application has been filed by the applicant in which he has stated that no reply has been received by him to his representation dated 12-1-99 sent to the respondents. In this application, he has prayed for the reliefs as set out in paragraph 8 of the OA.

2. The brief relevant facts of the case are that the applicant joined as Technician with the respondents, Deptt. of Telecommunications on 13-7-1960. He was further promoted as Auto - Exchange Assistant in 1967 and later promoted as Engineering Supervisor w.e.f. 9-10-1968. He was sent on deputation to the Sultanate of Oman by the respondents on 8-4-1976 and was due back from deputation on

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1-3-1981. Admittedly, the applicant did not do so, as according to him, he was having medical problems for which he required the treatment abroad. According to the respondents, as the applicant was on unauthorised absence from duty, a departmental action was initiated against him under Rule 14 of the CCS (CCA) Rules, 1965. The Inquiry Officer in his report dated 1-1-1988 held the charges proved against him. The applicant has stated that he has attended the inquiry on 12-12-1987 and presented his defence. The disciplinary authority vide his order dated 10-5-88 imposed a penalty of removal from service on the applicant. On an appeal filed by the applicant against this order, the appellate authority has modified the disciplinary authority's order and substituted the punishment of removal from service to one of compulsory retirement.

3. The main claim in the present application is for the retiral benefits due to the applicant after the appellate authority's order of compulsory retirement has been passed against him.

4. Learned counsel for the respondents has submitted that this OA is highly belated and barred by limitation. However, considering the claims raised in this OA and the decision of the Hon'ble Supreme Court in the case of M.R.Gupta Vs. Union of India & Anr. (1995 (5) SCC 628), that objection is rejected.

5. From the reply filed by the respondents, it is seen that it is somewhat incomplete with regard to applicant's claim for payment of gratuity. Ms.

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Anuradha Priyadarshini, learned counsel for the respondents has agreed that it has not been given so far. In the facts and circumstances of the case, as the respondents themselves have passed an order of compulsory retirement against the applicant as far back as 3-7-1991, the amount due to him ought to have been paid to the applicant on the same date or soon thereafter. In the circumstances, the claim of the applicant for payment of gratuity with interest @ 10 % p.a. is allowed from the due date. 12

6. The respondents have not disputed the claim made by the applicant that he has rendered service with them from the date of his appointment on 13-7-1960 till the expiry of the deputation period, on 1-3-1981 to Sultanate of Oman. We, therefore, see force in the submissions made by Shri Rajiv Nehru, learned counsel, that for the services rendered by the applicant during this period i.e. from 13-7-1960 to 1-3-1981, the applicant would be entitled to leave/leave salary and other benefits in accordance with relevant rules and regulations, subject to whatever leave he has availed of during this period. Admittedly, the respondents have also failed to grant him the leave encashment otherwise due to him for this period till date. In the circumstances, we direct the respondents to grant leave encashment as due to him for this period, in accordance with law, relevant rules and instructions.

7. During the hearing learned counsel for the applicant has fairly admitted that he does not press the prayers in clauses a, b & d of paragraph 8.

8. However, the applicant has prayed for interest @ 24 % p.a. on the pension actually paid to him from 10-5-1988 to 25-8-1996. Learned counsel has submitted that even though the applicant was compulsory retired in July 1991, the respondents have paid the retiral benefits to him only on 25-8-96 and, therefore, there has been undue delay on their part in giving the retiral benefits to him. We do not find any sufficient reasons given by the respondents to explain this long delay in disbursing the retiral benefits to the applicant. Their contention that the service records of the applicant were not complete can hardly be considered as sufficient to condone the lapse on their part, particularly when it is taken into account that it was for them to complete the records and the claim is that of a retired person. In this view of the matter, we direct the respondents to grant interest @ 10 % p.a. on the pension amounts actually paid to the applicant from the due date i.e. 3-7-91 till the date of actual payment i.e. 25-8-96.

9. Another claim made by the applicant is with regard to the payment of the Provident Fund for the period he has worked from 1960-1981. According to the respondents, this amount has already been paid. However, learned counsel for the applicant submits that this is not clear from the Pension Payment Order sent to the applicant dated 25-3-96. He has, therefore, submitted that the Tribunal may give a direction to the respondents to furnish the necessary

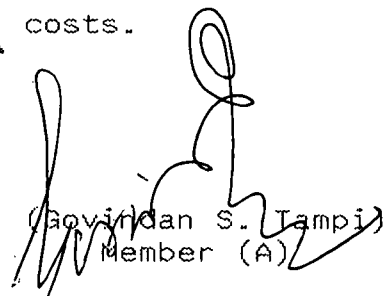
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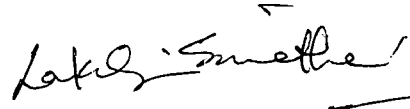
particulars. The respondents are directed to give a detailed statement showing the Provident Fund amount due and paid to the applicant.

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10. We also find force in the claim made by the learned counsel for the applicant that the applicant would be entitled for revision of pension as per the recommendations of the Vth Central Pay Commission and the relevant rules. This shall also be computed by the respondents in accordance with the relevant rules and instructions for revision of pension amount due to the applicant.

11. The above due amounts to the applicant shall be paid within two months from the date of the receipt of the copy of this order. No order as to costs.

  
(Govindan S. Jampi)  
Member (A)

  
(Smt. Lakshmi Swaminathan)  
Vice-Chairman (J)

/vikas/