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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

D.A.No. 856 of 1988 Date of Decision: 26.12.83
CORAM:

Hon'ble Mr. Justice B.C.Saksena, Vice Chairman(J)

Hon'ble Mr.S.R.Adige, Member(A).

M.M.S.JainApplicant.
Late Shri Padam Chand Jain, Asstt.Secretary,
BHEL Ltd., BHEL House, Siri Fort, New Delhi-110049.

Versus

Union of India, through
Secretary, Depart of Company Affairs,
Shastri Bhawan, 5th Floor,
A-Wing, Dr. Rajinder Prasad Road,
New Delhi.

2. Pay & Accounts Officer,
Department of Company Affairs,
Parivaran Bhavan,
B-Wing, CGO Complex,
Lodi Road,
New DelhiRespondents.

SK.Gupta Advocate for applicant
Advocate Shri N.S.Mehta for Apps.

ORDER

Hon'ble Mr.S.R.Adige, Member(A)

In this application, Shri M.M.S.Jain, who joined as Junior Technical Assistant, Department of Company Affairs on 17.6.65, and went on deputation to Bharat Heavy Electricals Ltd., New Delhi in 1982, and was subsequently absorbed there vide impugned letter dated 6.8.85 (Annexure-A1), has prayed for the following reliefs:-

- (a) Para (v) (b) and para (vii) of letter No.PFO(321)-Admn-II/75 dated 6.8.85 may be declared as ultra vires the Rules and hence may be struck down as illegal.
- (b) Benefit of Presidential Order No.2/1/87-PIC-1 dated 16.4.87 may be extended to the applicant, along with interest at the rate of 18% Per annum.
- (c) Para (v)(b) and para (vii) of letter no.PFG (321)-Adm-II/75 dated 6.8.85 may be read down to the extent it is violative of CCS (Pension) Rules, 1972 and CCS(Commutation of Pension) Rules, 1981.
- (d) All consequential reliefs may be extended

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to the applicant.

2. At the outset Shri S.K.Gupta, learned counsel for the applicant, ~~has drawn our attention to a judgment of which has also been placed on record. It is a full~~ ~~has conceded that this case~~ ~~is fully covered by the~~ judgment dated 3.8.93 of the Full Bench of this Tribunal in O.A.No.1477 of 1989. Shri B.K.Anand Vs. Union of India through General Manager, Northern Railway. Shri Anand was holding a post of Deputy Signal & Tele communication Engineer in the Northern Railways. He was deputed to the Indian Railway Construction Company Limited (IRCON), a public sector ~~and~~ undertaking, for a period of three years and was permanently absorbed there vide order dated 16.11.84 w.e.f. 31.7.83. He submitted the settlement papers for securing 100% commutation by way of terminal benefits from 31.7.83. The gratuity amount was paid to him on 19.3.86, and after medical examination on 10.4.86, the commutation amount was paid to him on 26.5.86. His grievance was that he has been denied the benefit of the liberalised pension scheme order dated 16.4.87 by which the pension structure was modified and a higher rate of pension was prescribed. It was his case that for the purpose of commutation of the petitioner's pension, the benefit of the liberalised pension scheme should have been extended to him.

3. By the aforesaid judgment dated 3.8.93, it was held that a retiree having been permanently absorbed in a Public Sector Undertaking or autonomous body and having opted for 100% commutation of pension before 1.1.86, although the actual payments were effected after 31.12.85, was not entitled to the benefits of the Presidential Order dated 16.4.87, and hence the claim of that

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petitioner for revision of the commutation amount on the basis of said presidential order was rejected.

4. In the present case also, the applicant Shri M.M.S.Jain was deputed to Bharat Heavy Electrical Limited, a Public Sector Undertaking in 1982 and was subsequently absorbed there on 6.8.85. He opted for 100% commutation of pension before 1.1.86, although the actual payments were effected after 31.12.85, and the benefit of presidential order dated 16.4.87 is not admissible to him.

5. In the result, no interference in the letter dated 6.8.85(Annexure-A1) is warranted and this application is accordingly dismissed. No costs.

Anjali
(S.R.ADIGE)
MEMBER(A)

B.C.Sakse
(B.C.SAKSENA)
Vice-Chairman(J)