

(12)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI.

Regn. No. O.A. 857/1988. DATE OF DECISION: 31-7-1991.

Radha Kant Jha Applicant.

V/s.

Union of India & Others ... Respondents.

CORAM: Hon'ble Mr. Justice U.C. Srivastava, Vice Chairman(J).
Hon'ble Mr. I.P. Gupta, Member (A).

Shri G.D. Gupta, counsel for the Applicant.
Shri N.S. Mehta, Sr. Standing Counsel for the Respondents.

(Judgment of the Bench delivered by Hon'ble
Mr. Justice U.C. Srivastava, Vice Chairman)

JUDGMENT

The applicant has been deprived of the pensionary benefits notwithstanding the fact that in the various legal battles, he has succeeded. His writ petition (Civil) No.368/88 filed in the Supreme Court for pensionary benefits was disposed of on 2.5.88 whereby the counsel for the application was permitted to withdraw the same with liberty to approach this Tribunal. The applicant started his service career as a Teacher cum Instructor at Teachers Training Wing Reformatory School, Hazaribagh, Bihar with effect from 3.1.1952. Later on, he applied through proper channel for the post of Instructor, Cane and Bamboo Works, under the Andaman and Nicobar Administration, where he was selected and was duly appointed vide letter dated 18.2.60. Subsequently, he was promoted to higher grades and was appointed as an Extension Officer (Industries) by order dated 15/17th September, 1966. By an order dated 7th July, 1967, passed by the Andaman and Nicobar Administration, he was reverted to the original post and was sent back to the Government of Bihar. But later on, when it was found that he was no longer in the service of the Government of Bihar, the order against him was withdrawn. The Andaman and Nicobar Administration, it appears, thereafter, vide Order dated 11.5.1971, terminated the services of the applicant under sub-rule (1) of Rule 5 of the CCS (Temporary Service) Rules, treating the applicant as a temporary employee.

The said order was made effective with retrospective effect from 25th July, 1967. The applicant challenged this order before the Calcutta High Court, which allowed the writ petition so far as the retrospective effect of the order was concerned. The retrospective effect to the order dated 11th May, 1971 was set aside by the Calcutta High Court. Thereupon he approached the Supreme Court of India, which allowed the SLP and quashed the order of termination of the services of the applicant. The Supreme Court further directed that three-fourth back wages from the date of termination of service up to date or to the date of his attaining the age of 58 years, whichever is earlier, may be paid to him. The applicant, thereafter, applied for pensionary benefits, including pension and gratuity, but the same was not paid. He again approached the Supreme Court as he was not satisfied with the computation of the back wages made by the respondents and thereupon the Supreme Court again directed the executing court to complete the computation expeditiously. In this application, the applicant prays that he has been deprived of the pensionary benefits to which he is entitled under the CCS (Pension) Rules.

2. The respondents have resisted the plea of the applicant by pleading that the Supreme Court in its judgment / did no direct the A&N Administration either to reinstate the applicant or to award full back wages. On the other hand, it considered it sufficient to meet justice if the applicant was awarded 3/4th back wages from the date of termination of service upto the date or to the date of his attaining the age of 58 years whichever is earlier and, as such, the pension and gratuity is not admissible to him. According to the respondents, pension and gratuity is admissible to a Government servant on his retirement either voluntary after completion of 20 years of qualifying service or on attaining the age of superannuation. Thus, the entire case of the respondents is based on the interpretation of the orders passed by the Supreme Court. The Supreme Court quashed the

order terminating the services of the applicant. He was thus entitled to be reverted to the post which he was previously holding. The Supreme Court dealt with the question of payment of back wages and instead of remitting the matter to the High Court to find out whether the applicant was gainfully employed during that period, they thought that the interest of justice will be sufficiently met if the applicant was awarded three-fourth back wages. Once the termination order was quashed, he was automatically restored back to service and continued to be in service. Of course, he could not be retained in service beyond the date of his superannuation.

3. In view of the foregoing discussion, this application deserves to be allowed and the respondents are directed to calculate the pensionary benefits to which he would be entitled within a period of three months from the date of communication of this order and pay to him the entire pensionary benefits together with interest on the arrears at the rate of 12 per cent per annum within another one month and thereafter he would continue to draw his monthly pension. With these observations, this application is disposed of finally. There shall be no order as to costs.

Ishant
(I.P. GUPTA)
Member (A)

U.C. Srivastava
(U.C. SRIVASTAVA)
Vice Chairman (J)

31.7.1991.