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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 288
T.A. No.

1986,

DATE OF DECISION 9.9.1987

Sri K.L. Phadke **Petitioner**

In person **Advocate for the Petitioner(s)**

Versus

Intelligence Bureau **Respondent**


Mrs. Raj Kumari Chopra, **Advocate for the Respondent(s)**


CORAM :

The Hon'ble Mr. S.P. Mukerji, Administrative Member

The Hon'ble Mr. Ch. Ramakrishna Rao, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement ? Yes
2. To be referred to the Reporter or not ? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement ? Yes


(Ch. Ramakrishna Rao)
Judicial Member


(S.P. Mukerji)
Administrative Member

(10)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: DELHI

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Regn.No.OA-288/1986

Date: 9.9.1987

Shri K.L.Phadke

... Applicant.

Versus

Intelligence Bureau

... Respondents.

For Applicant.

... In person.

For Respondents.

... Mrs.Raj Kumari
Chopra, Advocate.

CORAM: Hon'ble Shri S.P.Mukerji, Administrative Member
Hon'ble Shri Ch.Ramakrishna Rao, Judicial Member

JUDGEMENT

(Delivered by Shri Ch.Ramakrishna Rao)

The applicant was appointed as direct Recruit Assistant with effect from 25.9.1953 in the Intelligence Bureau (IB) and retired from service on attaining the age of superannuation with effect from 31.8.1981. Before joining IB, he was serving as a L.D.C. in the office of Director of Agriculture, in the erstwhile Government of C.P. and Berar (now Madhya Pradesh), Nagpur with effect from 1.3.47 to 23.9.53 in a temporary capacity. He has been representing for counting of his past service of about 6½ years from 1.3.47 to 23.9.53 under Madhya Pradesh Government as qualifying service for pensionary benefits under the Central Government but in vain. Hence this application.

2. The applicant submits that the Department of Personnel and Administrative Reforms (DOP & AR) in their O.M. dated 31.3.82, after consultation with the State Governments decided that proportionate pensionary liability in respect of temporary service rendered under the Central Government and State Governments, to the extent such service would have qualified for grant of pension under the rules of the respective Governments, would be shared by the Governments

C.L.P.

concerned on a service share basis so that the Government servants are allowed the benefits of counting their qualifying service both under the Central Government and the State Governments for grant of pension by the Government from where they eventually retire. According to the applicant the benefit of this O.M. should be given to him also.

3. Mrs. Raj Kumari Chopra, learned Counsel for the respondents submits that the decision contained in the O.M. dated 31.3.82 is in the nature of an agreement between the Central and State Governments for reciprocal sharing of the financial liabilities by the respective governments on service share basis and the Government of India has given effect to the O.M. only on the date it was issued. Since the applicant had retired from service prior thereto he is not entitled to the benefit of the O.M.

4. We have considered the matter carefully. In our view, there appears no justification for making the O.M. applicable only from the date it was issued i.e. in respect of persons on or after 31.3.82 but not those who retire prior thereto. In D.S. Nakara and Others Vs. Union of India, AIR-1983-SC-130, the Supreme Court had held that there was no intelligible differentia for making liberalised pension formula (LPE) applicable to employees governed by CCS (Pension Rules), 1972 retiring on or after the specified date i.e. 1.4.1979 but not to those retiring prior thereto. Citing two earlier decisions on the subject viz. D.R. Nim Vs. Union of India, AIR-1967-SC-1301 and Jaila Singh Vs. State of Rajasthan, AIR-1975-6-1436, the Supreme Court held that "the Central Government cannot pick out a date from a hat and say that a period prior to specified date would not be deemed to be covered by the impugned orders. Applying the ratio

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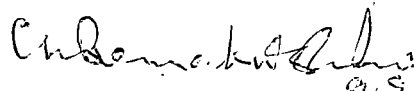
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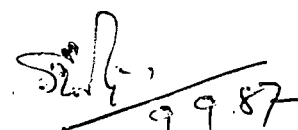
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of these Supreme Court decisions to the present case, we are satisfied that giving the benefit of the O.M. only to those retiring after 31.3.82 but not to those prior to it is highly discriminatory.

5. We, therefore, direct the respondents to give the applicant the benefit of the decision contained in the O.M. dated 31.3.1982.

6. In the result, the application is allowed.
There will be no order as to costs.


(Ch. Ramakrishna Rao) 9.9.87
Judicial Member


(S.P. Mukerji)
Administrative Member