

7

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
DELHI.

O.A. No.1475/1987

Date of Decision: January 16, 1990.

Ms. Pushpa Roy ... Applicant.

Vs.

The Secretary,  
Ministry of Information &  
Broadcasting, Shastri Bhavan,  
New Delhi and another ... Respondents.

Coram:

Hon'ble Mr. Justice Amitav Banerji, Chairman.

Hon'ble Mr. P.C. Jain, Member (A).

For the applicant ... Shri R.N.Gupta, counsel.

For the respondents ... Shri P.P.Khurana, counsel.

( Judgment of the Bench delivered by  
Hon'ble Mr. Justice Amitav Banerji, Chairman)

The applicant filed the present Original Application (for short O.A) under Section 19 of the Administrative Tribunals Act, 1985 (hereinafter referred to as 'the Act') on 24.9.1987 claiming several reliefs viz., to regularise the applicant's service tenure from 15.3.1976 to 26.10.1978, to calculate pension and other post-retirement benefits, payment of gratuity and insurance and full salary for 6 years from July, 1975 to February, 1980 and interest thereon.

The applicant in the O.A. has stated that she worked as Monitor in the telephone exchange of All India Radio, New Delhi. After 30 years of service, she was pre-maturely retired by a Review Committee in April, 1973 under Rule 48 of C.C.S. (Pension) Rules, 1972, which was subsequently

60

withdrawn on a representation made by her vide order dated 25th/26th October, 1978. The applicant thereafter joined the duty in All India Radio on 27.10.1978 and ultimately retired from service on 29.2.1980. The service of the applicant was, however, not regularised for the period 19.3.1976 to 26.2.1978 in spite of her several representations. The applicant was informed by respondent No.2 vide letter dated 10.6.1985 that her absence had been treated as leave and the same was covered by Earned Leave, Half Pay Leave etc. She sent a representation on 10.12.1985 to the Hon'ble Minister of Information and Broadcasting. Thereafter she made another request to the Minister vide her letters dated 19.11.1986 and 5.12.1986 for proper settlement of all her dues including post-retirement benefits such as G.P.F., Gratuity, Insurance, Leave encashment, Pension etc. A representation has also been made to the Minister for Personnel, Public Grievances and Pensions. The applicant, thereafter received a letter dated 7.1.1987 by which the respondents demanded 'No Demand Certificate' from the Directorate of Estate and NDMC stating therein that there was an arrear about Rs.12584.95 pending against her and that the applicant was entitled to a sum of Rs.10803.90 as arrears towards pension benefits. It was also stated that the final payment of GPF and pension as well as DCRG etc. could not be settled as the applicant has failed to comply with the formalities. Since the applicant had replied to the above letter on 8.2.1987, there has been no response nor any payment made. Hence the O.A.

On behalf of the respondents it was pointed out that she had been served with a notice of three months on completion of 30 years of service by Directorate General, All India Radio vide order dated 4.5.1973. On her representation it was decided to withdraw the notice of premature retirement on sympathetic considerations with a verbal warning to her to improve her performance. Her case was again to be reviewed before attaining the age of 55 years. Subsequently, she was retired from service from 15.3.1976 in view of her uniformly poor record and the order was served on her accordingly vide No.374/75/SV dated 15.12.1975. On her representation, her retirement was reviewed by the Representation Committee. The Committee recommended her reinstatement holding that the period intervening her premature retirement from 15.3.1976 to 26.10.1978 should be treated as leave as admissible to her including E.O.L. She was thereafter taken back in service from 27.10.1978. The intervening period was regularised by granting her leave of the kind due and admissible to her vide Memo dated 12.11.1979 (Annexure II). It was also stated that the said period of leave was granted with a certificate that it would count towards increment and her pay was accordingly fixed vide Order dated 10.6.1985 (Annexure -III). She was informed to collect arrears on the fixation of pay vide office communication dated 13.6.1985 (Annexure IV). The respondents' case was that the intervening period had been regularised and arrears accrued to her were drawn and she

was informed to collect the amount due to her.

The letter dated 10.6.1985 deals with the fixation of pay and not the grant of leave which in fact was granted to her vide Memo dated 12.11.1979. It was further stated that the applicant had not disclosed that the representations made by her had been acknowledged and replied to. The letter addressed to the Minister for Personnel, Public Grievances and Pensions was duly replied to her by the Director General, All India Radio vide letter dated 2.6.1986 in which she was requested to receive her dues as arrears of pay and allowances. The applicant has been non-cooperative in finalising the formalities. The applicant has not produced a 'No Demand Certificate' from the Director of Estates, Nirman Bhavan, New Delhi for the Government accommodation she was residing in. As per the intimations received from Director of Estates and NDMC, the applicant was required to pay Rs.12,584.95 on account of licence fee, standard rent etc. and the electricity charges. The applicant was asked to complete the formalities and was requested to call upon at the office of the Station Director, All India Radio, New Delhi to facilitate her to submit her claims. A list of communications sent to the applicant between 9.10.1979 and 4.4.1987 are mentioned in Annexure VIII to the written statement. This statement shows that 17 letters were sent to the applicant.

In regard to G.P.Fund Account, the applicant used to

get statement of G.P.Fund Account every year. She had been requested several times to come to the Office of the Station Director, All India Radio for completing the formalities which included payment of G.P.Fund also. The respondents denied that there has been delay on behalf of the respondent No.2. The matter could not be settled due to non-cooperative attitude of the applicant and non-fulfilment of requisite formalities by her. The applicant herself has been responsible for non-settlement of her dues and, therefore, not entitled to receive any interest and further stated that she was not entitled to any salary for the period from 15.3.1976 to 26.10.1978. She was only entitled to get arrears on account of fixation of her pay by drawing her annual increments during this period on allowing her to cross Efficiency Bar. This payment had been drawn in her favour and was offered to her on many times but she failed to receive the same. Lastly, it was stated that the reliefs claimed were time barred and the Tribunal did not have the jurisdiction to adjudicate the time barred matters.

We have heard Shri R.N.Gupta and Shri P.P.Khurana for the parties. There is no dispute that the applicant was sought to be retired prematurely and a notice had been given effective from 15.3.1976. However, on a review, the order was set aside and the applicant was reinstated vide order dated 26.10.1978. She has claimed full pay and allowances for this period. The Review Committee set aside the order with a rider that this period will be treated as a period on

12

leave. It was accordingly adjusted in the type of leave that she would be entitled and the matter ended there. Now she is claiming pay and allowances for the above period.

A short question arises: Whether a claim for salary and allowances for a specific period viz. 15.3.1976 to 26.10.1978 would be entertained for consideration in an O.A. filed in 1987? It is well settled that the Tribunal has no jurisdiction to go into a question in which the cause of action arose prior to 1.11.1982. See V.K. MEHRA Vs. THE SECY. MINISTRY OF INFORMATION & BROADCASTING, NEW DELHI- (ATR 1986 CAT 203) and the case of R.SANGEETHA RAO Vs. U.O.I. (OA 352/1987) decided by a Division Bench of the Principal Bench on 16.8.1989 7

The cause of action for non-payment of the salary and allowances for a specific period is not a recurring matter and the cause of action arose immediately on non-payment of salary. This relief was, therefore, time barred and cannot be adjudicated upon by this Tribunal. Similarly, the claim for full salary for 6 years from July, 1975 to February, 1980 is also time barred and cannot be granted. We must point out at this stage that the applicant has approached this Tribunal only after getting the letter dated 7.1.1987 (Annexure VI to the O.A.). This letter neither says about the arrears of pay and allowances for the aforementioned period nor does it say anything about the <sup>full</sup> salary for 6 years from July, 1975 to February, 1980. These were not the matters even remotely referred in the letter dated 7.1.1987.

If the applicant was aggrieved by the aforesaid letter, then the relief Nos. (i) and (v) now claimed in this O.A. do not arise out of the contents of this letter. Relief (i) and (v) read as follows:-

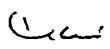
- "(i) To regularise the applicants service tenure from 15.3.76 to 26.10.78, and
- (v) Full salary for 6 years from July, 1975 to February, 1980, and .."

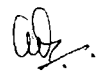
The above reliefs have been included while referring to the letter dated 7.1.1987. We are, therefore, constrained to observe that the applicant has wrongly based her reliefs (i) and (v) on the basis of letter dated 7.1.1987 which were wholly irrelevant for the said periods. May be, it was done to circumvent the bar of limitation under Section 21 of the Act. Moreover, when the period between 15.3.1976 and 26.10.78 had been treated as leave and she had been granted leave as admissible to her including E.O.L., there was no question for making payment for the said period. She was well aware of this. The claims in respect of reliefs (i) and (v) are not made out and are rejected.

The only question that now remains to be considered in this O.A. is the retiral benefits. There is no manner of doubt that a Government servant is entitled to his or her retiral benefits and the Government has no right to retain the same except as under the Rules. The applicant is entitled to D.C.R.G., Pension etc. and she would be entitled to receive the same. The material on the record shows that the applicant was asked to be present in the Office of the Station Director, All India Radio to furnish the requisite

information and complete the formalities for receiving the amounts due to her. If there was some amount which was due from her according to the Estate Office or NDMC, it was open to her to show to the authorities that no such amount was due to them. All this could be settled provided there was some effort made by her. We have no doubt that she approaches the concerned Officers of respondent No.2, her retiral benefits could be settled and paid to her without delay. One expects that the Office of the Respondent No.2 would act promptly in the matter of post retiral benefits. We would, therefore, direct the respondents to settle the post retiral dues of the applicant within a period of two months from the date <sup>of</sup> moving an appropriate application by the applicant along with a copy of this order.

This O.A. is accordingly disposed of and the parties are left to bear their own costs.

  
(P.C. JAIN)  
MEMBER (A)  
16.1.1990.

  
(AMITAV BANERJI)  
CHAIRMAN  
16.1.1990.