

6

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 202 198 7
T.A. No.

DATE OF DECISION 6.1.88

Shri Anand Prakash Saksena **Petitioner**

Shri V. Prasad, **Advocate for the Petitioner(s)**

Versus

Union of India & others **Respondents**

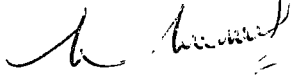
Shri P.P. Khurana **Advocate for the Respondent(s)**
Shri G.C. Lalwani

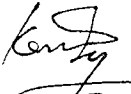
CORAM :

The Hon'ble Mr. Justice K. Madhava Reddy, Chairman

The Hon'ble Mr. Kaushal Kumar, Member

1. Whether Reporters of local papers may be allowed to see the Judgement ? Yes
2. To be referred to the Reporter or not ? No
3. Whether their Lordships wish to see the fair copy of the Judgement ? No
4. Whether to be circulated to all the Benches ? No


(Kaushal Kumar)
Member


(K. Madhava Reddy)
Chairman

6.1.88

7

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: DELHI

REGN. NO. CA 202/87

Date of decision: 6.1.88

Shri Anand Prakash Saksena ----- Applicant

Vs.

Union of India & others ----- Respondents.


Coram: Hon'ble Mr. Justice K. Madhava Reddy, Chairman
Hon'ble Mr. Kaushal Kumar, Member

For the Applicant ----- Shri V. Prasad, Counsel.

For the Respondents ----- Shri P.P. Khurana, Counsel
and Shri G.C. Lalwani,
Counsel.


(Judgement of the Bench delivered by Hon'ble
Mr. Justice K. Madhava Reddy, Chairman).

The applicant who joined the Indian Administrative Service, having regard to his date of birth would have attained the age of superannuation on 31.3.1988. However, he chose to voluntarily retire with effect from 14.3.1983 (Forenoon) and gave a notice on 27.7.82 addressed to the President of India. As requested by the applicant, by Order No.E.1-132/1/5/82 dated 30.9.82, he was allowed to retire voluntarily with effect from 14.3.83. In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant seeks a direction against the Respondents to revise his date of retirement to 2.4.83 by allowing him extraordinary or any other leave for the period from 14.3.83 to 1.4.83 (Afternoon) as requested by him in a letter subsequently addressed by him to the State Government on 21.4.1983. He also prays that his pension and gratuity may be revised accordingly and the difference in the pension and gratuity paid to him. The applicant has filed an amended petition further clarifying his claim and admitting that his pension had been calculated treating 14.3.83 as the date of his voluntary retirement.

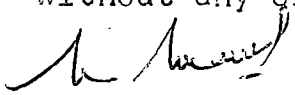



2. There is no dispute that as per the Rules then in force his qualifying service was calculated in six monthly periods and accordingly the total qualifying service was worked out as 30 years and 6 months. The applicant was allowed Rs.1157/- as Pension and Rs.36,000/- as Gratuity. The applicant now claims that in view of his subsequent letter of 21.4.83 requesting that he should be deemed to have retired on 2.4.83 and in ^{the}light of the Notification No. 25011/9/83 AIS(II) dated 14.9.83, a fraction of less than three months should be overlooked and any period between three months and six months should be treated as a six monthly period in calculating the total qualifying service. We must point out that the Notification of 14.9.83 has no retrospective effect and cannot be applied to the case of a person like the applicant, who had retired before that notification was issued. His pension was to be determined as per the Rules then in force. If that notification is not applicable, then the fraction of less than six months had to be excluded in calculating the applicant's total qualifying service. On that basis, the total qualifying service of the applicant comes to 30 years and 6 months which entitles him only to the amount of pension and gratuity now allowed to him. He is not entitled to any enhancement.

3. The further contention that he should be deemed to have retired on 2.4.83, cannot be accepted for the simple reason that he had applied for the voluntary retirement with effect from 14.3.83. This notice was given by him in July 1982 and the Respondents had accepted his request for voluntary retirement in September 1982. Accordingly his request for retirement became effective from 14.3.83. Any request made thereafter to allow him to retire on 2.4.83 did not lie and could not have been entertained. He cannot ^{/be} deemed to continue in service after he had retired on 14.3.83. The present claim of the applicant does not merit acceptance either in respect of the pension or gratuity or revision of the date of retirement.



4. Mr. V. Prasad, learned counsel for the applicant made a further submission that the same relief as was granted in All India Services Pensioners Association Vs. Union of India (1) may be allowed to the applicant in this case also. He claims this relief on the strength of the amended petition. This Tribunal never intended to permit him to claim additional pension on a wholly different cause of action. If the applicant is claiming any relief on the basis of the subsequent Revised Pension Rules which were not the subject matter of the Original Application, that cannot be allowed to be raised in this/amended application. It is for him to move a separate application; that claim cannot be allowed to be agitated in this application. That matter is left open. Nothing said herein will affect his rights, if any, in this behalf. If any such application is filed, it will be considered on its own merits. This application, therefore, fails and is accordingly dismissed but without any order as to costs.


(Kaushal Kumar)
Member


(K. Madhava Reddy)
Chairman

6.1.88