

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1075
T.A. No.

1987.

DATE OF DECISION August 7, 1987.

Shri P.L.Sharma, Petitioner

Shri V.P.Sharma, Advocate for the Petitioner(s)

Versus

Union of India & Ors Respondent s.


None. Advocate for the Respondent(s)

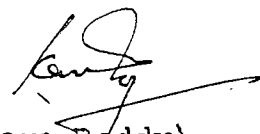
GORAM:

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

The Hon'ble Mr. S.P.Mukerji, 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 other Benches? *No*


(S.P.Mukerji)
Member
7.8.1987.


(K.Madhava Reddy)
Chairman
7.8.1987.

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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
DELHI

Regn. No. CA 1075/87

August 7, 1987

Shri P.L. Sharma

... Applicant

Versus

Union of India & Ors

... Respondents

CORAM:

Hon'ble Mr. Justice K. Madhava Reddy, Chairman
Hon'ble Mr S.P. Mukerji, Member

For the applicant

... Shri V.P. Sharma, Counsel

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

The claim of the applicant that he is entitled to pension was agitated before the Central Government Labour Court, New Delhi under Section 33C(2) of the Industrial Disputes Act. Whether that petition lies or not, it is not for us to go into at this stage. The Labour Court held that such a petition does not lie under Section 33C(2) of the I.D. Act and that the petitioner's claim can be investigated only upon a reference under Section 10 of the I.D. Act. His claim for pension was, therefore, rejected. The petitioner took the matter to the Delhi High Court by way of Writ Petition. The High Court dismissed the writ petition in limine on 23.1.1987. The order of the High Court is as under:

"CWP 81/87

Present: Mr. Ashok Agarwal, counsel for the petitioner.

The view taken by the Labour Court is perfectly justified. The claim of the petitioner in respect of pension and gratuity could not be adjudicated in the proceedings under Section 33 C(2) of the Industrial Disputes Act, 1947, in view of the disputes raised

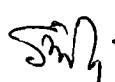


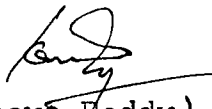
that as the petitioner failed to deposit the provident^{fund} and gratuity earlier paid to him on reinstatement in service, he was treated as in fresh service. Dismissed in limine.

Sd/- S.S.Chadha, Judge.
Sd/- S.N. Sapara, Judge."

The matter did not rest there. The petitioner took the matter by way of a S.L.P. to Supreme Court. The Supreme Court dismissed the petition. He now moves this Tribunal under Section 19 of the Administrative Tribunals Act, 1985 claiming that if a petition under Section 33 C(2) of the Industrial Disputes Act did not lie, his claim for pension should be adjudicated by this Tribunal. The right to pension, if any, arose on 1.7.1969 when he was compulsorily retired.

The applicant was removed from service. On an appeal, he was reinstated but on a lower post. That reinstatement was made on 24.7.1967 (Annexure A/1). He rejoined service on 5.9.1967. One of the conditions imposed on him for reinstatement in service was that he should refund the provident fund and gratuity paid to him earlier. Admittedly, he did not deposit that amount. He was, therefore, treated as a fresh entrant to service. If he has thus entered service on 5.9.67 and retired on 1.7.69, under the Pension Rules, he is not entitled to any pension. His claim for pension being untenable, this application fails and is accordingly dismissed.


(S.P. Mukerji)
Member
7.8.1987


(K. Madhava Reddy)
Chairman
7.8.1987