

(Signature)

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

M.A.3198/94 in  
D.A.1726/90

New Delhi, this the 22nd November, 1994

Hon'ble Shri J.P. Sharma, Member (J)

Hon'ble Shri S.R. Adige, Member (A)

Shri Mange Ram Tundwal,  
s/o Shri Gugan Ram,  
working as District Manager,  
Haryana Harijan Kalyan Nigam,  
Chandigarh, posted at Bhiwani  
and was working as  
Incharge, Training Officer,  
Office of Development Commissioner,  
Handicrafts,  
Ministry of Textile,  
R.K. Puram, West Block No.7,  
New Delhi.

R/o 201, Ashoka Road,  
Bhiwani, Haryana.

... Applicant

By Advocate: Shri K.S. Chauhan

Vs.

1. Union of India  
through  
The Development Commissioner (Handicrafts),  
Textile Division, West Block No. VII,  
R.K. Puram, New Delhi.

2. The Secretary,  
Ministry of Textile,  
Udyog Bhawan,  
New Delhi.

3. The Secretary,  
Ministry of Pensions and Public  
Grievances, North Block,  
New Delhi.

... Respondents

By Advocate: None.

O R D E R (ORAL)

Hon'ble Shri J.P. Sharma, Member (J)

The applicant worked in various Central  
Govt. departments from 16.9.65 to 12.2.85. On the  
last occasion, the applicant was in the office of  
the Development Commissioner (Handicrafts) Textile

...2.

Division, Ministry of Textile, New Delhi. The applicant was selected as District Manager in the office of Haryana Harijan Kalyan Nigam, Chandigarh (A State Govt. Undertaking) and posted at Bhiwani. The grievance of the applicant is that he has not been paid pro-rata retirement benefits and in this application filed on 21.8.90 the applicant has prayed for the grant of the reliefs that a direction be issued to the respondents to award the pro-rata retirement benefits. This application was listed for hearing on 25.8.94 when it was dismissed in default of the applicant. However, the applicant has moved M.A.3198/94 praying in the petition that the aforesaid order of dismissal in default for the reasons stated in the petition be recalled and the application be heard on merit. We issued notice to the respondents and inspite of service and appearance of the Departmental Representative on 27.10.94 no reply or objection has been filed to this M.A. and also none appears from the side of the respondents. In view of this, we are perusing the petition for recalling the order of ex parte dismissal of the O.A. and we find that there was reasonable and sufficient cause for non-appearance of the applicant on the date of hearing i.e. 25.8.94. The order ex parte dismissal is therefore recalled and M.A. is allowed.

2. We heard the learned counsel Shri K.S. Chauhan, who stated that in the meantime the respondents are in the process of finalising the payment of pro-rata retirement benefits to

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the applicant and the applicant has also deposited contribution towards pension and leave salary demanded by the respondents from him. The learned counsel however, stated that he is not sure whether the payment has been made to the applicant, as he could not contact the litigant and the application be disposed of giving liberty to the applicant in the case the retirement benefits are not fully paid as per the decision conveyed by the Department of Pension and Pensioners' Welfare by the Memo. dated 20.9.90. In para 1 of the counter of the respondents it is clearly stated that the Department of Pension and Pensioners Welfare has conveyed the decision that leave salary and pension contribution be recovered from the applicant for the period of his foreign service and the lien of the officer will have to be revived by the competent authority for the period he remained on foreign service and he will not be entitled to carry forward or encashment of earned leave as provided in the O.M. dated 9.1.84.

3. We have also seen the rejoinder filed by the applicant and this fact is not denied.

4. In view of the above facts and circumstances the present application has become infructuous as the pro-rata benefits claimed by the applicant for his service rendered has been drawn and assessed. But the same has not been conveyed to the applicant or the learned counsel has not been informed by the applicant if any such communication has been addressed to him by the Department. In any case if the applicant is dis-satisfied by the grant of pro-rata benefits or if they are not according to rules or according to decision conveyed by the Department

of Pension and Pensioners Welfare, it shall be open to the applicant to assail his grievance according to law subject to law of limitation. Cost on parties.

*Infra*  
(S.R. ADIGE)  
Member (A)

*J. P. Sharma*  
(J.P. SHARMA)  
Member (J)

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