

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

## NEW DELHI

O.A. No. 2073/90  
T.A. No.

199

DATE OF DECISION 22.1.1991

<u>Shri Shiv Poojan Singh</u>	<del>Petitioner</del> Applicant
<u>Shri B.S.Charya,</u>	Advocate for the <del>Petitioner(s)</del>
Versus	
<u>Commissioner of Police &amp; ors.</u>	Respondents
<u>Shri M.M.Sudan,</u>	Advocate for the Respondent(s)

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The Hon'ble Mr. P.K.KARTHA, VICE CHAIRMAN(J)

The Hon'ble Mr. D.K.CHAKRAVORTY, MEMBER(A)

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 it needs to be circulated to other Benches of the Tribunal? *No*

### JUDGEMENT

( Judgement of the Bench delivered by  
Hon'ble Mr. D.K.Chakravorty, Member(A) )

We have heard the learned counsel of both parties. The relief sought in the present application <sup>relate</sup> ~~is relating~~ to the retirement benefits of the applicant on the basis of the date of superannuation being September 1990. From the service record produced before us, it is evident that the date of birth <sup>of the applicant</sup> / entered is 20.1.1932. The applicant was, however, allowed to work even beyond January 1990. In fact, he worked upto the end of September, 1990.

2. Shri B.S.Charya, learned counsel, appearing for the applicant stated that the respondents have passed an order on 21.12.90 whereby a sum of Rs.18,270/- + Rs.1,000/- has been sought to be withheld from the DCRG of the applicant. He stated that the sum of Rs.18,270/-

represents the pay and allowances drawn by the applicant for the period of 8 months from 1st February, 1990 to the end of September, 1990. He further stated that an increment fell due to the applicant on 1.1.90 which has also not been taken into account by the respondents. Further, extra pay for the proportionate period of 8 months has also not been paid to the applicant.

3. Shri M.M.Sudan, learned counsel, appearing for the respondents, drew our attention to the statement in the counter-affidavit to the effect that the respondents detected the mistake in the date of birth of the applicant while his pension papers were being processed. Accordingly, they passed a corrective order on 28.9.90 to the effect that the applicant is deemed to have retired on attaining the age of superannuation on 31.1.90.

4. The applicant was, however, allowed to work upto the end of September 1990 though under a mistake. Having worked during the said period, we are of the view that the applicant would be entitled to the benefit of pay and allowances, bonus and extra pay for the proportionate period during which he worked. The increment which has fallen due on 1.1.90 should also be taken into account while calculating the pension, leave encashment and gratuity payable to the applicant.

5. Accordingly, we dispose of the present application at the admission stage itself with the following orders and directions:-

- (i) though the applicant has worked upto the end of September 1990, we hold that he must be deemed to have retired from Government service on attaining the age of

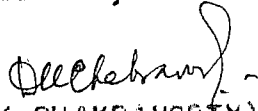
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superannuation on 31.1.90 which is the date entered in his service record. His pension and retirement benefits should be calculated on that basis;

- (ii) for the period of service rendered by the applicant from 1-2-90 to the end of September 1990, the applicant would be entitled to pay and allowances, proportionate bonus and extra pay admissible under the rules. The said amount shall not be deducted from the DCRG payable to the applicant;
- (iii) In case any increment has fallen due to the applicant on 1.1.90 as claimed by him, the same should also be reckoned for the purpose of calculating pension, gratuity and leave encashment etc. to which the applicant is entitled to;
- (iv) the applicant would be entitled to Provident Fund upto the date of his actual retirement in September 1990; and
- (v) the respondents shall comply with these directions within a period of one month from the date of receipt of this order.

There will be no order as to costs.

A copy of this order be given to both the parties immediately.

  
( D.K.CHAKRAVORTY )  
MEMBER

  
( P.K.KARTHA )  
VICE CHAIRMAN