

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

...

R.A.No.197 of 1994

in
O.A.No.191 of 1990

Dated New Delhi, 23rd day of July, 1996.

HON'BLE MR A. V. HARIDASAN, VICE CHAIRMAN(J)
HON'BLE MR K. MUTHUKUMAR, MEMBER(A)

1. Union of India, through
The Secretary,
Ministry of Defence,
Government of India,
NEW DELHI.
2. The Chairman,
Ordnance Factory Board,
Ministry of Defence,
Government of India,
10-A, Auckland Road,
CALCUTTA-700 001.
3. The General Manager,
Ordnance Factory,
Ministry of Defence,
MURADNAGAR-201 206. ... Review Applicants

By Advocate: Shri V.S.R. Krishna

versus

Shri Bundu
S/o Mohd. Ismel,
Ex-T.No.287,
R/o Ordnance Factory Muradnagar Estate,
MURADNAGAR,
Dist. Ghaziabad (U.P.) ... Respondent

By Advocate: Shri V. P. Sharma

O R D E R (Oral)

Hon'ble Mr A.V. Haridasan, VC(J)

The respondents in the OA have filed this R.A.
Praying that the order passed by the Bench on
12.8.1994 in the OA may be reviewed since it
suffers from an error apparent on the face of the

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record. The OA was filed by the applicant who having served for 12 years and superannuated at the age of 60 years, was not given any pension at all.

The applicant claimed that the action on the part of the respondents of having retained him in service for a long period of 12 years and not given him any retirement benefits, is arbitrary, unreasonable and opposed to the rules and provisions contained in Articles 14 & 16 of Constitution. The respondents contended that the applicant being an unconfirmed industrial worker was not, as per the rules which existed on the date of his retirement, entitled to any pension and that O.M. dated 14.4.1987 which provides for grant of pension to industrial employees who served for a period of ten years prior to superannuation was not retrospective in ^{order.} After considering the rival contentions of the parties, the Division Bench came to a conclusion that the inaction on the part of the respondents in the OA in not confirming him on any post could not be put up as a ground for denying him the pensionary benefits. In this regard, the Division Bench placed reliance on a decision of the Hon'ble Supreme Court in P.K. Jain Vs UOI reported in JT 1994 Bol.IV SC.507. The Bench came to *dh*

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conclusion that having continued the applicant in a post for a period of 12 years it should be deemed ~~that~~ he had been made permanent and on the basis of the said conclusion the Bench allowed the application in part and directed the respondents to grant him the pensionary benefits. It is ⁱⁿ ~~a~~ case of the review applicants that whether the applicant should be deemed to be confirmed or not, was not one of the pleadings raised in the application and, therefore, the Tribunal went wrong in considering this as a main issue and ~~decided~~ ^{the} the matter accordingly. The review applicants state that this being an error apparent on the face of the record, the order dated 12.8.1994 needs review and recalling.

2. We have heard Shri V.S.R. Krishna, learned counsel for the review applicants and Shri V. P. Sharma, the learned counsel for the respondent. The learned counsel for the review applicants invited our attention to the pleadings in this case and stated that the applicant did not raise the case that the action on the part of the respondents in not confirming him for a long period was unjustified and ^{seek} ~~sought~~ the relief on that basis, and therefore, he argued that the judgement of the Tribunal having based ~~the~~ ^{on} the matter ~~on the~~

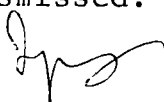
extremuous to the pleadings, there is an error and therefore the order is liable to be recalled.

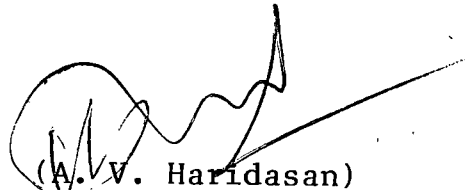
In support of this argument, the learned counsel for the review applicants invited our attention to a decision of the Hon'ble Supreme Court in Trojan & Co.. Vs Naggappa Chetia reported in AIR 1953 SC 235. It is true that the Hon'ble Supreme Court has observed that the courts will have to confine to the pleadings of the case and should not consider matters outside the pleadings and has held that the decision taken having regard to extremuous matters, cannot be upheld. But it was not held in that judgement if in a judgement, matters which are not covered by pleadings are considered that would amount to an error apparent on the face of the records, such judgement may be set aside or modified by appellate court. That will not be a ground for review.

3. The learned counsel for the review applicants referred to the ruling , General Manager Vs V. G. Desai JT 1996 (2) SC.77. The facts and circumstances in that case are entirely different. Therefore, the above ruling has no application in this case. On a careful reading

of the Review Application, we are left with the impression that the review applicants are seeking a review of the judgement challenging the wisdom of the findings. This can be done not in a Review Application, but in an appeal filed against the order.

4. In the light of what has been stated above, the Review Application fails and the same is dismissed. No costs.


(K. Muthukumar)
Member(A)


(A.V. Haridasan)
Vice Chairman(J)

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