

In the Central Administrative Tribunal
Principal Bench: New Delhi

OA No.558/90

Date of decision: 6.1.1993.

Shri K.L. Phadke

...Petitioner

Versus

Union of India through the
Director, Intelligence Bureau,
Ministry of Home Affairs,
North Block, New Delhi

...Respondents

Coram:-

The Hon'ble Mr. I.K. Rasgotra, Member (A)

For the petitioner : None

For the respondents : Shri N.N.Anand, ACIO-I(G)

1. Whether reporters of local papers may be allowed to see the judgement? *No*
2. To be referred to the Reporter or not? *yes*

I.K. Rasgotra
(I.K. RASGOTRA)
MEMBER(A)

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For the petitioner : None

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Judgement(Oral)

Neither the petitioner nor the learned counsel for the respondents are present. In the circumstances, I consider it proper to peruse the records and proceed to dispose of the matter on merits. In ~~the~~ OA 288/86 ² decided on 9.9.1987 the petitioner was allowed the benefit of proportionate pensionary liability in respect of temporary service in terms of Department of Personnel O.M. dated 31.3.1992 which was applicable prospectively. The Tribunal in the said case held that:-

"We are satisfied that giving benefit of the O.M. only to those retiring after 31.3.1982 but not to those prior to it, is highly discriminatory.

We, therefore, direct the respondents to give the applicant the benefit of the decision in the O.M. dated 31.3.1982.

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In the result the application is allowed.
There will be no order as to costs."

2. This application has been filed by the petitioner against the back-drop of the above decision. He submits that he retired on 31.8.1981 on superannuation and the pensionary benefits, differentials in pension, gratuity, computation etc. has been paid to him, in August, 1988 after a gap of 7 years in accordance with the judgement of the Tribunal of 9.9.1987. He, therefore, submits that he should be paid interest at 18% per annum on the delayed payment of arrears of pensionary benefits. The ground for claiming the interest is that the Tribunal while passing orders in OA No.288/86 observed that "....the application is allowed." The petitioner contends that he had claimed relief together with interest in OA-286/86 since and his petition was allowed, he was entitled to the interest on the differential amount received by him from 1.9.1981 to the date of actual payment.

3. The respondents in their counter-affidavit have repelled the claim of the petitioner stating that the Tribunal allowed him the benefit of decision of OM dated 31.1.1982 and nothing else. In fact, petitioner had given, three alternatives in OA 288/86 and the Tribunal allowed him alternative No.2, viz. giving the benefit of the instructions of the respondents contained in OM dated 31.3.1982. The petitioner is now construing this sentence appearing in the judgement "O.A. is allowed" as to mean that he should be paid interest on the amount which became payable at the rate claimed by him. They further submit that the petitioner had no right to claim amounts, as the said order was prospective paid to him in terms of OM dated 31.3.1982 and that right was vested in him only after the pronouncement

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of the judgement in OA 288/86. Accordingly, there is no interest which is payable to him. In case the petitioner felt aggrieved on account of non-implementation of the order of the Tribunal, the course open to him under the law would ^{be} to file a contempt petition against the alleged contemnors who have wilfully disobeyed the order to the Tribunal. A case having been finally decided cannot be the subject matter of further litigation, as it is barred by the doctrine of res-judicata.

4. I have gone through the records carefully and I am of the opinion that the petitioner is precluded from agitating the claim of the interest by way of filing a fresh O.A. If, he is aggrieved by the non-implementation of the earlier judgement as understood by him, he should have filed either a review petition to seek clarification of the order or a contempt of petition against the alleged contemnors for not complying with the orders of the Tribunals.

5. I am satisfied that the claim now agitated in this O.A. has been the subject matter of OA 288/86 and stands concluded by the judgement rendered on 9.9.1987. The same is barred by the doctrine of res-judicata from being agitated again. Accordingly, the O.A. is dismissed. No costs.


(I.K. RASGOTRA)
MEMBER(A)