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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No. OA 732/1990 with
RA 27/91

Date of decision: 29.05.92.

Shri I.D. Aggarwal

Applicant

Vs.

Secretary, Ministry of
Defence and Others

Respondents

For the Applicant

In person

For the Respondents

Shri K.S. Dhingra,
SPO on behalf of
respondent No. 1.

Mrs. Raj Kumari
Chopra, Counsel for
respondent Nos. 2 and
3.

CORAM:

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

The Hon'ble Mr. I.K. RASGOTRA, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed
to see the Judgment? *Yes*

2. To be referred to the Reporters or not? *No*

JUDGMENT

(of the Bench delivered by Hon'ble Shri P.K.
Karttha, Vice Chairman(J))

The applicant who is presently 70 years old
filed this application under Section 19 of the Administrative
Tribunals Act, 1985 in May, 1990. Notice was issued to the
respondents to file their counter-affidavit but they have
not filed any counter-affidavit. The case had been listed
for hearing on 25.09.90, 01.10.90, 09.10.90 and 04.12.90
when none appeared for the applicant. A notice was sent
to the applicant about the hearing fixed for 04.12.90. The

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applicant was not present^{on that day}. In view of this, the application was dismissed for default and non-prosecution. Subsequently, the applicant filed RA No. 27/91 and notice of the same was issued to the respondents. The RA came up for directions on 21.05.92 when the applicant appeared in person. Respondent No. 1 was represented by Shri K.S. Dhingra, Senior Administrative Office and Mrs. Raj Kumari Chopra, Counsel for respondent Nos. 2 and 3. The applicant also submitted written arguments.

2. We have gone through the records of the case carefully and have considered the main application as well as the RA 27/91.

3. Before setting out the reliefs sought by the applicant in the main application, it may be stated that the applicant has given the following particulars regarding his service. He was working in the Central Building Research Institute, Roorkee at the time of his retirement on 31.07.1983. He began his career as an Apprentice in the Collector's Office, Muzaffar Nagar and has worked in the said office from 12.12.1941 to 17.11.1942. Thereafter, he has worked as a Sr. Stenographer from 18.11.1942 to 31.12.1946 in the Ministry of Defence. He was reverted to ^{the post of Canal Clerk in} the Collector's Office, Saharanpur with effect from 01.01.1947 and worked there till he was deputed to the Government of India, Controller of Insurance, Ministry of Finance, Shimla on 18.05.1949. He worked there from 19.05.1949 to 05.01.1950 as a Stenographer. Thereafter, he has worked as a Stenographer in the Director of Cottage Industries, Kanpur from 6.1.1950 to 11.8.1950 and was reverted to the Office of

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the Civil Judge, Saharanpur as Stenographer and worked there from 12.08.50 to 04.02.54. with effect from 9.2.1954 to 31.07.1983 he was on deputation to CERI, Roorkee. He held the post of Scientist C1 at the time of his retirement. ✓

4. The respondents have stated that the case is very old and they have no material with them to verify the aforesaid details of service furnished by the applicant.

They have also submitted at the time of final hearing that the case is hopelessly ^{at} time barred.

5. The relief sought by the applicant in the main application are the following:-

- "A. Direct Respondent No.1 to declare the applicant's reversion to be a case of administrative error as envisaged in Pension Rule 34(2) and grant him a certificate with regard to pension w.e.f. 31.7.1983 and pay as on 9.12.1954 as if he had not been reverted thus enabling him to claim the same from respondent No.3.
- B. Direct Respondent No.2 to conduct investigation as to how the face of their knowledge of respondent No.3's letter No.51(ET)77 dated 5.3.77 about entitlement to pension Sharshi J.P. Khanna and Amar Singh could issue letters No.17(92)7/83-EII dated 30.03.1987 and No.51(79)ET/54-IV dated 3.7.1987 closing the applicant's case and thus acting mala fide.
- C. Direct Respondent No.3 to fix the applicant's initial pay of Rs.170/- w.e.f. 9.2.1954 and at Rs.180/- from w.e.f. 31.3.1947 as certified by respondent No.1 and at Rs.190/- p.m. after taking into account his service in the office of the Controller of Insurance in an identical scale and enhance his pension and pay the applicant due on this count.
- D. Direct respondent No.3 to calculate the commuted value of his pension on the basis of his pension at the time of payment of withheld pension to him as clarified by the applicant in his applications dated 25.10.88 and 17.8.89.
- E. Direct Respondent No.3 to pay the applicant interest at the rate of 12% per annum till he was paid his arrears of pension and other dues.
- F. Direct Respondent No.3 to return the amount of Rs.1218/- wrongly charged from the applicant for the period of his service under the U.P. Govt. because the applicant had desired this service to be condoned.

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G. Direct Respondent No. 3 to make his promotion under the 5 year Assessment Rule w.e.f. 15.10.1974 and not w.e.f. 20.06.1975 and enhance his pension accordingly and pay him arrears of pay on this account".

6. The applicant has made numerous representations to the respondents with regard to his aforesaid grievances from time to time and finally before filing the present application, he had also published in the Hindustan Times issue dated 19.06.1989 under the column "Action Line" about his grievances. The respondents did not give any relief to him and thereafter he filed the main application in the Tribunal.

7. With regard to his reversion to his parent office on 01.01.1947, the Ministry of Defence had informed the applicant by their letter dated 7.1.1988 that they regret their inability to do anything in the matter at this belated stage, as no records relating to the circumstances leading to his reversion are available.

8. In fact, the Ministry of Defence had informed the applicant earlier by their letter dated 29.07.1963 that the request has been made by him after a lapse of more than 16 years and that the post of Stenographer is being filled exclusively on the result of the competitive examinations conducted by the UPSC. By the same letter, the Ministry of

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Defence had regretted their inability in the matter of fixation of his pay in the office of the Controller of Insurance as they were not concerned with the subject and the applicant was directed to refer his case to the authorities concerned.

9. The applicant has stated in his written arguments that his initial pay as recommended by respondent No.3(CERI) to respondent No.2(CSIR) vide letter dated 23.03.1959 has not been implemented. He has prayed that a direction may be issued to them in this regard. In our opinion, this is a highly belated claim. No directions can be issued to the respondents in regard to his initial fixation of pay at this point of time.

10. The applicant has prayed that the respondents should be directed to calculate the commuted value of his pension afresh in the light of his application made in 1988-89. In his written arguments, he has stated that the commuted value of pension of Rs.383/- had been duly paid to him. His pension was subsequently revised with effect from 1.1.1986 to Rs.1527/- and in view of this, he has prayed that one third of his increased pension should now be granted to him with effect from 1.6.1992 by way of commutation. In our opinion, after commuting the pension once, at the time of retirement, a pensioner is not entitled to further commutation of pension consequent upon the revision of pension.

11. The applicant has prayed for a direction to the respondents to return to him a sum of Rs.1218/- wrongly charged from him for the period of his service under the U.P. Government

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because he had desired this service to be condoned.

12. The applicant has stated in his written arguments that much before his retirement, the respondents had already taken a decision to condone State Government services without charging any proportionate contribution from him and no such contribution was charged from his colleague Shri S.G. Garg. The applicant had retired in July, 1983 and the claim now preferred by him for refund of Rs.1218/- which have been recovered towards payment of pensionary liabilities is also barred by limitation.

13. The applicant has raised the question of his promotion under 5 years assessment rule with effect from 1974 and not from 1975. It appears that at the time of his retirement he had been promoted as Scientist C1 in the CBRI. This claim is also barred by limitation.

14. The applicant has alleged mala fides on the part of S/Shri J.P. Khanna and Amar Singh, Deputy Secretary and Section Officer ^{respectively} of the CSIR who allegedly did not process his case properly. The applicant has, however, not produced any material on record to substantiate the allegation of mala fides against Shri Khanna and Shri Amar Singh. They have also not been impleaded as respondents.

15. In the light of the foregoing, we are of the opinion that the applicant is not entitled to the reliefs

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sought by him. The application is accordingly dismissed.
RA No.27/91 filed by him is also disposed of on the above
lines.

There will be no order as to costs.

Let a copy of this order be placed in both the
case files.

Let a copy of this order be sent to the applicant
at his address indicated in the written arguments, namely,
Shri I.D. Aggarwal, Scientist C1 (Retired), 177 Avdesh
Bhawan, Khanjarpur, Roorkee (U.P.).

Subhash
(I.K. RASOTRA) 29/5/92
MEMBER (A)
29.05.1992

Surinder
(P.K. KARTHA) 29/5/92
VICE CHAIRMAN (J)
29.05.1992

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