

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

OA NO.956/90

DATE OF DECISION: 29.05.1992.

TARA CHAND

...APPLICANT

UNION OF INDIA

VERSUS

...RESPONDENTS

CORAM:-

THE HON'BLE MR. P.K. KARTHA, VICE-CHAIRMAN (J)

THE HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

FOR THE APPLICANT

SHRI M.R. BHARDWAJ, COUNSEL.

FOR THE RESPONDENTS

MRS. RAJ KUMARI CHOPRA, COUNSEL.

1. Whether Reporters of Local Papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*

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

P.K. KARTHA
(P.K. KARTHA)
VICE-CHAIRMAN

May 29, 1992.

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FOR THE RESPONDENTS MRS. RAJ KUMARI CHOPRA, COUNSEL.

(JUDGEMENT OF THE BENCH DELIVERED BY HON'BLE
MR. I.K. RASGOTRA, MEMBER (A))

In this Original Application, filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant Shri Tara Chand has assailed the order dated 6.10.1989 issued by the Ministry of Information and Broadcasting rejecting his appeal dated 30.8.1989 for grant of pro-rata pension and gratuity to him for the service rendered by him in the Ministry of I & B from 21.7.1966 to 31.1.1981 before he was relieved for joining duties in the Shipping Corporation of India (SCI). He has prayed for the following reliefs:-

- i) that the respondents be directed to grant him pro-rata pension etc. for the period he rendered service in Government of India viz. 21.7.1966 to 31.1.1981.
- ii) To pay interest at the rate of 12% per annum on the dues, payable to him, as the payment was deliberately and wrongfully delayed to him.

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2. The respondents in their counter-affidavit have submitted that the first relief regarding pro-rata pensionary benefits has already been provided to the applicant. The only issue, therefore, for adjudication which survives in this O.A. is whether the applicant is entitled to payment of interest at 12% p.a.

3. The brief facts of the case are that while working in the Ministry of Shipping and Transport the applicant applied for the post of Immigration Clerk in the SCI through proper channel. On selection he was relieved from the Ministry of Shipping and Transport on 31.1.1981. In 1984 the applicant represented that he would like to come back to the parent department due to domestic problems. This request, however, could not be accepted and the applicant was suitably advised vide letter dated 26.5.1984. In 1987 the applicant represented for grant of pro-rata pension and gratuity and later produced a photo copy of the appointment letter dated 28.2.1981, issued by SCI from where it transpired that he was kept on probation for a period of six months in the SCI. In the meantime the Government had maintained his lien in accordance with the relevant rules for two years which expired on 31.3.1983. The right of the applicant for pro-rata pension and Gratuity itself was under dispute, as his service was not transferred to SCI on deputation in public interest. The distinction between joining public sector on one's own volition and in public interest was done away with subsequently.

The respondents further sought certain clarifications from the applicant regarding the payment of leave salary pensionary contribution vide their letter dated 2.11.1988 which information was supplied vide letter dated 3.6.1989. The applicant vide his letter dated 4.9.1990 was asked to exercise his option within six months from the date of the

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sanction whether he would like to receive:-

- a) pro-rata monthly pension and DCRG as admissible under the rules; or
- b) pro-rata gratuity and lump sum amount in lieu of pension worked out with reference to the commutation period.

The applicant has since exercised his option vide letter dated 29.11.1990 but the same was returned with the remark that option should be exercised by him through his present employer. He has also been asked to fill in Form-5 for pro-rata pension and commutation of pension etc. in Form-2. This information has been received on 27.5.91 (Annexure R-12) and the respondents have forwarded his pension papers for grant of pension and DCRG to the Pay and Accounts Officer vide their letter dated 2.7.1991 (page 85 of the paperbook). The respondents have further stated that three cheques relating to the amount of gratuity and pension for the month of September have already been sent to the applicant vide letter dated 4.11.91. His case for lump sum amount in lieu of pension is pending for want of medical examination to which the applicant has not yet subjected himself.

In view of the above peculiar circumstances of the case, we are of the opinion that there has been no undue delay on the part of the respondents in sanctioning and payment of pro-rata pension and DCRG to the applicant. We are, therefore, not inclined to direct the respondents to pay interest, as prayed for by the applicant.

The O.A. is disposed of on the above lines, with no order as to costs.

I.K. Rasgotra
(I.K. RASGOTRA) 29/5/92
MEMBER(A)

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29/5/92
(P.K. KARTHA)
VICE-CHAIRMAN