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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
* * *

OA 1737/91

02.04.1992

SH. A.P. SUNNEY

...APPLICANT

VS.

UNION OF INDIA

...RESPONDENTS

CORAM :

HON'BLE SHRI J.P. SHARMA, MEMBER (J)

FOR THE APPLICANT

...SH.M.K. MICHAEL

FOR THE RESPONDENTS

...SH.JOG SINGH

1. Whether Reporters of local papers may be allowed to see the Judgement? 2
2. To be referred to the Reporter or not? 2

JUDGEMENT (ORAL)
(DELIVERED BY HON'BLE SHRI J.P.SHARMA, MEMBER (J))

The applicant in this case was given an employment in the Indian Embassy Bonn on 25.5.1971 as a temporary Clerk and he has worked there till 17.4.1986, a period short of few months of his tenure after which the applicant is sought to have sought voluntary retirement/quitted the service. He came to India with a view to settle here and made a representation with the External Affairs Ministry that he should be given terminal benefits as he has served for about 15 years as an employee though locally recruited in the Indian Embassy at Bonn.

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Though in this application there is challenge to the order dt.8.10.1965 (Annexure A) and the order dt.3.3.1981 (Annexure B) which obviously, in view of Section 21(1)(b) of the Administrative Tribunals Act, 1985 do not come within the purview of limitation as laid down in the said provisions. The applicant has claimed the relief for a direction to the respondents to grant gratuity and/or terminal benefits to the applicant on the basis of 15 years' service of the applicant. A notice was issued to the respondents on admission and the respondents have filed their counter contesting the claim of the applicant stating therein that as per the federal laws existing in Germany, there was a social security scheme which consisted of three elements-(a) Health Insurance, (b) Pension Insurance and (c) Unemployment Insurance. The applicant, who was locally recruited in Bonn opted to contribute only to the Health Insurance Scheme and did not make any contribution towards the other two schemes named above. In the event of applicant's contributing to other two schemes also, the Government has to contribute a matching amount of 50% and in that event, the pensionary benefits are available to the applicant after he completes the age of 65 years.

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The learned counsel for the respondents also pointed out that the service of the applicant fell short of few months of 15 years. It is also pointed out that it is a stale matter and should not be admitted being barred by limitation.

The applicant has filed the rejoinder and attached a letter dt.24.9.87 (Annexure A to the rejoinder) and referred to para 5 at p-76 of the paper book that this narration in this particular para gives an indication that the pensional contribution could have benefitted to a person who opted to settle in Germany.

After considering the whole matter, it transpires that the matter is still under active consideration of the Ministry of External Affairs. The learned counsel for the applicant also pointed out that certain similarly situated staff of Brussels Embassy have been given the benefit as narrated at p-77 in para-7 (Annexure A), which is as follows :-

"It is understood from our Embassy in Brussels that in addition to sickness insurance, the local employees, there are being paid gratuity at the rate of one month's pay for each completed year of service."

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In view of this above and in view of the law laid down in the case of Sh.P.L.Shah Vs. UOI, 1989, so much of the claim of the applicant which could come within limitation can be adjudicated upon. The application is disposed of without entering into merits of the claim as well as on the point of limitation as follows :-

The respondents are directed to dispose of the pending representation of the applicant dt.2.7.1990 and if no such representation is available with the respondents, the applicant may prefer a supplementary representation stating all these facts along with a copy of this Original Application to boost his case for the grant of terminal benefits and the respondents are directed to decide the matter within a period of six months from the date of receipt of the representation of the applicant which he should furnish within two months from the date of communication of this order. In case the applicant is still aggrieved or the representation of the applicant is not disposed of by a reasoned order or

is not disposed of at all, then the applicant can come up again and this order will not be a hurdle in the way of the applicant in getting the relief, if otherwise entertainable according to law and limitation. In the circumstances, the parties to bear their own costs.

J.P. Sharma

(J.P. SHARMA)
MEMBER (J)
02.04.1992

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