

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

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Date of Decision: 24.12.92

OA 1977/91

MUKAT BEHARI LAL

... APPLICANT.

Vs.

GENERAL MANAGER,  
NORTHERN RAILWAY,  
NEW DELHI.

... RESPONDENT.

CORAM:

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

For the Applicant

... SHRI A.K. BEHRA.

For the Respondent

... SHRI N.K. AGGARWAL.

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

J\_U\_D\_G\_E\_M\_E\_N\_T

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

The applicant has retired as Superintendent (Establishment), Northern Railway Headquarters, Baroda House, New Delhi on superannuation on the basis of recorded date of birth that is 31.7.34. He filed a Suit before the Sub Judge, Delhi about the correction of the date of birth from the year 1926 to 1928. As an interim order was granted to the applicant that he shall not be retired on the basis of the

recorded date of birth and as such the applicant continued to be in active service even beyond the date of superannuation. The Civil Suit was transferred to the Principal Bench, Central Administrative Tribunal but was ultimately dismissed on 20.11.97 and that order became final, so the date of superannuation of the applicant has been 31.7.84. While disposing of the Civil Suit of the applicant as TA, it was directed that retirement benefits be paid to the applicant without delay. It was further ordered that the pensionary benefits be calculated on the basis of the salary drawn by the applicant as on 1.8.84. The applicant filed CCP as the respondents failed to comply with the direction of payment of the retirement dues, decided by the order dated 26.4.90, in which it was held that as the question relates to certain disputes in calculation of payment of retirement benefits, the applicant may file fresh OA for that grievance.

2. The present application, therefore, has been filed under Section 19 of the Administrative Tribunals Act, 1985 for a direction to the respondents to settle the retirement benefits alongwith claim of 18% interest on the delayed payment.

3. The applicant has claimed various amounts on account of Gratuity, Leave Encashment etc. and during the course of the hearing, the respondents have issued cheques of various amounts but the applicant was not satisfied. The applicant

in the account furnished stated that Gratuity and Leave Encashment due to the applicant is Rs.27,589.40 but the total amount paid to him Rs.17,499/-. Thus, the balance amount of Rs.10,090. still remains unpaid.

4. The respondents, in the statement of accounts filed, stated that amount of DCRG Rs.20,670.40 and Leave Encashment Rs.6,319. have been paid. However, the respondents have deducted from this amount, the amount of pension which the applicant has been paid from 1.8.84. As the applicant had already remained in service with the respondent by virtue of an interim order of the court till 31.5.86, the applicant has also drawn his regular service <sup>pay etc.</sup> with increments till 31.5.86. From 1.4.86, the provident al pension has been sanctioned in favour of the applicant. The Bench, while disposed <sup>ing</sup> of the TA on 20.11.87, held that whatever has been paid to the applicant as salary and allowances from 31.7.84 till 31.5.86 shall not be recovered. However, the pensionary and other benefits shall be payable to the applicant as the applicant stands retired on 31.7.84 by virtue of the recorded date of birth, which has not been <sup>corrected</sup> recorded as the year 1928. The respondents have also filed a supplementary account and also paid to the applicant a cheque for another amount of Rs.10,019.00. It is stated by the learned counsel for the respondents that still an amount of Rs.2,094.47 has been paid in excess to the applicant. By the calculation it is shown that the applicant has also been paid from 1.8.84 to 31.5.86 increment <sup>pay</sup> on the pension and other consequential increase on D.A. etc.

*VB*

However, by virtue of the direction given in the order disposing of the TA the applicant has been paid salary for the period he has worked without <sup>all</sup> benefit accruing upto that date i.e. 31.5.86.

5. In view of the above calculation of accounting, the amount paid to the applicant cannot be said to be paid in excess. The applicant, therefore, has been paid all the retirement benefits.

The application is, therefore, disposed of as infructuous leaving the parties to bear their own costs.

*J. P. Sharma*  
20.12.90  
( J.P. SHARMA )  
MEMBER (J)