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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 2999/91

DECIDED ON : 18.1.1993

Ganesh Dutt

... Applicant

Versus

Union of India & Ors.

... Respondents

CORAM : THE HON'BLE MR. P. C. JAIN, MEMBER (A)

THE HON'BLE MR. J. P. SHARMA, MEMBER (J)

Shri B. S. Mainee, Counsel for the Applicant

Shri D. S. Mahendru, Proxy Counsel for Shri
P. S. Mahendru, Counsel for the Respondents

J U D G M E N T (O R A L)

Hon'ble Shri P. C. Jain, Member (A) —

In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant who has since retired from service, has prayed for a direction to the respondents, ^{to} pay him the amount of Death-cum-Retirement Gratuity, leave encashment, amount of group insurance and also sanction of pension alongwith sanction/payment of commuted amount of pension. These payments he has asked for with interest at the rate of 18 per cent per annum from the date of retirement till the date of payment. He has also prayed for a direction to the respondents to issue to him the post-retirement passes. Here, it is necessary to state that the applicant is claiming the aforesaid benefits on the basis of his retirement on 30.6.1990.

2. The respondents in their reply have stated that the applicant will be deemed to have retired on 30.6.1986 and that his retirement benefits are under process. The applicant has also filed a rejoinder in which he has reiterated that he is entitled to retirement benefits on the basis of his retirement as on 30.6.1990.

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We have perused the material on record and also heard the learned counsel for the parties. Before the rival contentions of the parties are considered, it is necessary to state, as a background to this case, that by means of a notice issued earlier, on the basis of the applicant's recorded date of birth being 1.7.1928 the applicant was to retire on 30.6.1986 afternoon. This was challenged by the applicant in O.A. No. 467/86. An interim order was issued by the Tribunal on 27.6.1986 staying the operation of the impugned retirement notice till the next date which was fixed as 7.7.1986. This interim order was not extended. However, the applicant continued in service upto 30.6.1990 on which date he was sought to be retired vide notice dated 29.9.1988 (Annexure A-1). The stand of the respondents is that the applicant continued to be in service upto 30.6.1990 under the bonafide ^{belief} ~~pleas~~ that the interim order dated 27.6.1986 continued to be in effect. In support of their contention, learned proxy counsel for the respondents submitted that the applicant was also under a similar bonafide mistake inasmuch as he filed a Civil Contempt Petition in the Tribunal on the basis of the notice in pursuance of which he was to be retired on 30.6.1990. Be that as it may, the fact remains that O.A. No. 467/86 was dismissed, though in default, by an order passed by the Tribunal on 6.7.1992. The result is that the applicant has not established that he had a right to continue in service beyond 30.6.1986. In view of this fact we cannot, in this O.A. before us, give any direction to the respondents to compute the retirement benefits of the applicant on the basis of his retirement as on 30.6.1990. However, for the period the applicant actually served he will be entitled to the pay and allowances for the post held by him from 1.7.1986 to 30.6.1990 and the payments made to him on this account for the above period shall not be recovered from him but the retirement benefits, that

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is to say, the monthly pension, DCRG and the leave encashment, are required to be calculated on the basis of the applicant's retirement on superannuation as on 30.6.1986, as no Government servant has any legal right to continue in service beyond the age of superannuation as prescribed in the rules. The applicant shall also be entitled to simple interest at the rate of 12 per cent per annum on the amount of DCRG w.e.f. 1.10.1986 till the date of payment. As regards leave encashment, if the applicant has availed of the leave at his credit as on 30.6.1986 during his continuance in service from 1.7.1986 to 30.6.1990, he will not be entitled to leave encashment for the leave so availed of, but for the leave to which he may be found entitled to encashment as aforesaid, he shall also be paid simple interest at the rate of 12 per cent per annum from 1.7.1986 till the date of payment. As regards the monthly pension, this shall be calculated on the basis of his average emoluments and the qualifying service as on 30.6.1986 but for the period he has drawn pay and allowances for his having continued to work upto 30.6.1990 he shall ^{not} be entitled to payment of monthly pension. However, from 1.7.1990 he shall be entitled to the same with simple interest at the rate of 12% per annum on the arrears on this account. As regards the commutation of pension, he will be entitled to the commutation thereof as per rules with reference to his retirement on superannuation on 30.6.1986, and the amount of commuted pension shall be paid to him along with simple interest at the rate of 12% per annum till the date of payment. The savings portion of the group insurance amount shall similarly be calculated with reference to his date of retirement on 30.6.1986 and the premium paid by the applicant for the period thereafter may be ignored for this purpose as he must have availed of the insurance cover from 1.7.1986 to 30.6.1990. If the interest as per rules on the savings portion in the group insurance account as on 30.6.1986


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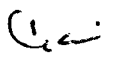


has already been credited to his account for the period upto 30.6.1990 the applicant shall not be entitled to any further interest for the period from 1.7.1986 to 30.6.1990. He shall, however, be entitled to the interest on the savings portion of his account in the group insurance scheme from 1.7.1990 till the date of payment at the rate of 12% simple interest per annum.

3. His post-retirement passes shall also be released to the applicant w.e.f. 1.7.1990 as he must have availed of the privilege passes ^{and} PTCs from the period 1.7.1986 to 30.6.1990.

4. The O.A. Stands disposed of in terms of the above directions. We leave the parties to bear their own costs.


(J. P. Sharma)
Member (J)


(P. C. Jain)
Member (A)