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

X (27)

RA 41/93 in OA 1977/91

Date of Decision : 17.02.93

Shri Muket Behari Lal Vs. General Manager, N.Railway

ORDER

The applicant has filed this Review Application against the judgement dt.24.12.1992 disposing of the Original Application of the applicant holding that the retirement benefits have been paid to the applicant and the application has been disposed of as infructuous. The applicant in this RA relying on the decision in the case of A.S. Choudhary Vs. Union of India & Others, reported in 1991 (18) ATC 87 stated that omission to adjudicate upon a specific claim in the petition furnishes a ground for review of the judgement. The grievance of the applicant appears to be that the interest @12% p.a. on the delayed payment of retirement dues has not been granted to him. The review applicant has also referred to the decision in the case of State of Kerala vs.M.Padmanabhan Nayar, reported in AIR 1985 SC 357 and also a decision of the Tribunal in the case of Manak Chand Jain Vs. A.N. Vanchu decided by the Principal Bench by the order dt.6.1.1989 (Annexure A2) to review application.

The issue for consideration in the OA has been regarding the various amounts of gratuity, leave encashment etc. which were due to the applicant and remained unpaid because of the special feature of the case of the applicant. It may be recalled that the applicant filed a civil suit for correction of his date of birth from the year 1926 to 1928. He was superannuated on the basis of the recorded date of

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birth on 31.7.1984. However, by virtue of an interim direction, the applicant continued to work even after the date of superannuation. That relief was not allowed to the applicant and it was directed that the retirement benefits be paid to the applicant calculated on the basis of the salary drawn by the applicant on 1.8.1984. The applicant has also filed CCP as he has not been paid the benefits on the basis of the decision in the said TA decided on 20.11.1987. That CCP was disposed of by the order dt.26.4.1990 in which it is specifically ordered that there still remains dispute in calculation of the retirement benefits for which the applicant may file fresh OA. Taking all these facts into account, the respondents have paid certain more amount to the applicant during the pendency of the aforesaid OA. This was not a case of administrative lapse. The award of interest was a discretionary relief and that discretion has been exercised judicially in the circumstances of the case. When the application has been disposed of as infructuous, it by itself goes to show that the claim of interest was disallowed. Thus none of the authorities cited by the applicant helps his case. It was not a case of withholding of retirement benefits, but it was because of certain facts by which the date of superannuation of the applicant as 31.7.1984 was not enhanced on the basis of the date of birth, i.e., 1928.

As provided by Section 22 (3)(f) of the Act, the Tribunal possesses the same powers of review as are vested in a Civil court while trying a Civil Suit. As per the

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provisions of Order XLVII, Rule 1 of the Code of Civil Procedure, a decision/judgement/order can be reviewed :

- (i) if it suffers from an error apparent on the face of the record; or
- (ii) is liable to be reviewed on account of discovery of any new material or evidence which was not within the knowledge of the party or could not be produced by him at the time the judgement was made, despite due diligence; or
- (iii) for any other sufficient reason construed to mean 'analogous reason'.

The case of the applicant does not fall in any of such grounds. The Review Application is, therefore, dismissed as devoid of merit.

J. P. Sharma
(J.P. SHARMA) 17.2.93
MEMBER (J)