

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL NEW DELHI

O.A.No. 2204/92.

DATE OF DECISION

5/7/93Shri Raj Kumar Puri,

Petitioner

Shri R.L. Sethi,

Advocate for the Petitioner(s)

Versus

Union of India & Others

Respondent

None

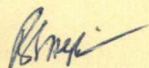
Advocate for the Respondent(s)

CORAM**The Hon'ble Mr. B.S. Hegde, Member (Judicial).****The Hon'ble Mr.**

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

J _ U _ D _ G _ E _ M _ E _ N _ T _**[Delivered by Hon'ble Shri B.S. Hegde, Member (Judicial)]**

In this application, the applicant has sought reliefs in para 8 of his of his application filed under Section 19 of the Administrative Tribunals Act, 1985 praying that the respondents be directed to grant pension, gratuity commutation and other pensionary benefits immediately with penal interest at the rate of 10 per cent per annum from the dates these became due and also release his salary and allowances from the period from 1.1.1991 to 31.3.1991 when the



applicant had actually worked. The grounds for relief are stated in para 5 of this O.A.

2. The facts of the case are that the applicant retired from service w.e.f. 31.12.1990 after rendering about 33 years of service as he was appointed on 15.7.1957. He states that he had submitted the required pension papers well in time before his retirement but no action has been taken by the respondents to release his pensionary benefits.

3. The Learned Counsel for the applicant, Shri R.L. Sethi, has drawn my attention to the order dated 8.12.1976 (Annexure A-2) wherein the Deputy Education Officer had written to the Manager, D.A.V. Senior Secondary School, Darya Ganj stating that the representation of Shri Puri dated 22.2.1973 has been duly considered by the Director of Education who has been pleased to allow regularisation of the intervening period from 23.4.1965 to 2.3.1970 by granting leave of the kind due subject to the condition that it would not confer any financial benefit and right for selection grade etc. The Learned Counsel for the applicant vehemently contends that at the time of his retirement no inquiry was pending against him and nothing adverse has been indicated to him by the

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authorities.

4. In the circumstances, that in spite of the repeated reminders to the authorities to grant pensionary benefits, they did not hear to his request and the applicant was not left with no other alternative but to approach this Tribunal.

5. The respondents, vide their reply, has taken a preliminary objection that the subject matter does not fall within the jurisdiction of this Tribunal as the applicant had worked in Aided School and accordingly this application is liable to be dismissed. They denied by saying that the applicant had not rendered 33 years of service though they conceded that he was appointed on 15.7.1957 and he was re-employed on 2.3.1970 and his total qualifying service works out to near about 21 years. The delay, if any, in finalising the pension papers was the school authorities and not the respondents who had released 90% of the gratuity of the applicant. They further contended that since the applicant was on foreign assignment in U.K. thereby he resigned from service on private affairs and his resignation was accepted.

Accordingly, the condonation for the period from 1965 to 1970 was granted irregularly and against the relevant provisions of the Pension Rules. Having come to know the irregularities, the respondents vide their letter dated 27.11.1992 had withdrawn the condonation orders from the gap period of 1965 to 1970 on the ground that the condonation for the gap period from 1965 to 1970 granted to Shri Puri vide their letter dated 8.12.1966 was irregular, and against the provisions of the CCS (Pension) Rules, 1972 and accordingly the same was withdrawn.

6. In the light of the above pleadings, it is evident that the withdrawal order effected by the respondents was subsequent to the retirement of the applicant and after a lapse of 18 years. In view of the contents referred to in Annexure A-1, it is the responsibility of the respondents to finalise pensionary benefits to the applicant within the specified time. If at all the condonation was found to be erroneous granted by the erstwhile respondents, the same ought to have been rectified before his retirement which is not the case here. After the retirement of the applicant, the relationship between master and servant, between applicant and the respondents ceases to exist and any decision taken

by the respondents is not binding on the applicant. Therefore, it is clear that the withdrawal decision taken by the respondents in the year 1992 subsequent to retirement decision is an after-thought and the same is not tenable. Nowhere it is denied by the respondents that he has not submitted his pension papers in time, through proper channel, the Principal of the school.

7. In the conspectus of the circumstances and facts of the case, I am convinced that this O.A. can be disposed of with the following directions/orders :-

" The respondents are hereby directed to release the pension, gratuity, if any, commutation permissible under the law, balance of G.P.F. and other pensionary benefits to the applicant within a period of three months from the date of receipt of this order and also pay interest at the rate of 10% of the amounts due to the applicant".

8. The O.A. is disposed of in the light of the above, but with no order as to costs.

B.S. Hegde
(B.S. HEGDE) 5/7/93
MEMBER (JUDICIAL)