

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

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DATE OF DECISION: 17.07.1992

RA 135/92 in OA 209/92

Shri Amrik Singh Vs. Union of India & Ors.

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

The applicant has preferred this RA against the judgement passed in OA 209/92 dt. 2.4.1992. In OA 209/92, the applicant, who is a retired Government servant and a pensioner since 24th July, 1979 claimed interest @ 12% on the delayed payment of pension and DCRG. Earlier the applicant has filed a Writ Petition No. 1108/85 in the High Court which stood transferred to the Principal Bench and registered as TA 1181/85 decided on 31.5.1991. This Transfer Application was decided by the following order:-

"In the facts and circumstances of the case, we hold that the applicant must be treated to have retired from 24.7.1979 and that he would be entitled to proportionate pension and other benefits admissible under the Rules."

Annexure-A is the photostat copy of the said judgement.

2. The facts of the case are that the applicant joined as a Lower Division Clerk in 1949 in the Ministry of Defence and in 1952, he was transferred to the Ministry of External Affairs. He was promoted as UDC in 1962 and as Assistant in 1971. He remained posted in London from 6.5.1974 till 9.1.1978 and was ordered to join at headquarters after

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availing of the joining time. On 9.8.1978, a memo of chargesheet was issued to him, the applicant denied the charges. However, on 24.4.1979, the applicant sought for voluntary retirement. The notice of three months expired on 24.7.1979. The applicant was informed on 10.8.1979 that he has not yet attained the age of 50 years, he did not fulfil the conditions of voluntary retirement under FR 56(k). It is in these circumstances that by the judgement dt.31.5.1991, the applicant has been treated to have retired from 24.7.1979.

3. The relief prayed for by the applicant in the OA 209/92 is an award of interest on the delayed payment of pension and gratuity. The judgement was passed on 2.4.1992 as none appeared on behalf of the applicant. But since the applicant has filed this review petition, so the learned counsel for the applicant, Shri D.G. Vohra has been heard at length. As regards the hearing of the matter by Single Bench on 29.1.1992, the same counsel desired that the matter be heard by a Single Bench when the matter was placed before Division Bench. The matter was, therefore, ordered to be placed before a Single Bench and it came up for hearing before the Single Bench on 24.3.1992. The learned counsel for the applicant has referred to a number of authorities where the interest has been allowed on delayed amount of pensionary benefits as well as on gratuity, which are as follows :-

1. AIR 1985 SC 356, SLR 1985 (1) SC 750
State of Kerala Vs. Padmanaban Nair

2. SLJ 1986 CAT Delhi 499
Surinder Singh Anand vs. UOI & Ors.

3. SLR 1987(1) Punjab & Haryana High Court 74
Jaswant Singh Suller vs. State of Punjab & Ors.

4. SLR 1987(4) CAT Calcutta 436
B.Dutta vs. UOI

5. SLR 1987 (5) SC 288
Q.P. Gupta vs. UOI & Ors.
6. SLR 1988(1) SC 3
Harender Nath vs. State of Bihar & Ors.
7. SLR 1988(3) Punjab & Haryana High Court 243
Vidya Wati, w/o late Iqbal Rai Vs. State of Haryana & Ors.
8. SLR 1988 (4) Punjab & Haryana High Court 70
S.B. Narinder Singh Vs. State of Punjab & Ors.
9. SLR 1988(5) CAT Delhi 777
M.L. Malik vs. Lt. Governor, Delhi & Anr.
10. SLR 1988(7) CAT Chandigarh 645
Surinder Singh vs. UOI
11. SLR 1988(6) M.P. High Court 206
Rampyari Sukla vs. Secy., CSWS, Bhopal & Ors.
12. SLR 1989(1) CAT Jabalpur 29
Rameshwar vs. UOI
13. SLR 1989(2) CAT Jabalpur 407
R.R. Tiwari vs. UOI
14. SLR 1989(2) Punjab and Haryana High Court 574
D.P. Sehgal vs. State of Haryana
15. SLR 1989(5) Calcutta High Court 543
Ramanand Goswami vs. State of West Bengal & Ors.
16. SLR 1989(7) Orissa Administrative Tribunal 699
Krishna Chandra Mallik vs. State of Orissa & Ors.
17. SLR 1990(1) Punjab and Haryana High Court 637.
S.S. Sand Hawali vs. UOI
18. SLR 1990(3) CAT Calcutta 554
John Rufus vs. UOI & Ors.
19. SLR 1991(1) Punjab & Haryana High Court 528
Bhimsingh vs. State of Haryana
20. SLR 1991(2) Punjab & Haryana High Court 297
Prem Mohini Sadana vs. State of Punjab.

(3) (10)

4. The learned counsel for Union of India has opposed the OA on the ground that the present OA is barred by the principle of resjudicata as the matter has been finally adjudicated in the decision dt. 31.5.1991 in TA 1181/85. A perusal of the judgement (Annexure A to the application) goes to show that the Bench at an earlier occasion had gone into greater detail in adjudicating the case of the applicant, but did not allow any interest to the applicant on the delayed payment of DCRG as well as pension. Actually, the matter he assailed in the Writ Petition before the High Court was that the applicant be treated as retired from the Government service w.e.f.

24.7.1979 and the order dt. 15.2.1985 issued by the Ministry of External Affairs purporting to dismiss him from service w.e.f. 18.1.1979 be quashed. When the applicant has not been allowed interest, in no circumstances for the same relief another application can be filed. The principles of resjudicata also apply in a case where a relief which should and ought to have been taken by a person, he has omitted to take it and the same is barred under Order 2 Rule 2 C.P.C. Though the provisions of C.P.C. are not expressly applicable, but on the principles of natural justice also when already there is an adjudication in the matter and one person has been allowed the benefits which were not departmentally given to him, so nothing can be agitated again in that respect.

5. I have considered the matter in greater detail after hearing the learned counsel for the parties and I am of the view

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that the judgement already passed on 2.4.1992, though passed without hearing the applicant needs no modification or review except it shall be noted in the judgement that the learned counsel for the applicant has been heard at length on the issues raised in the application and even after that, there is no merit in the application. The Review Application is, therefore, disposed of accordingly.

J. P. Sharma,
(J.P. SHARMA) 19.7.92
MEMBER (J)