

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A.NO.2247/93

Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this 28 day of April, 1996

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Shri Vasudeva Sharma
s/o Shri Harcharan Dass
retired Accounts Officer
r/o V-257, Rajouri Garden
New Delhi - 110 027.

... Applicant

(By Shri M.L.Chawla and Shri S.L.Lakan Pal, Advocates)

Versus

Union of India through

1. The Secretary
Government of India
Ministry of Communication
Sanchar Bhawan
New Delhi - 110 001.

2. The Chairman
Department of Telecommunication
Ministry of Communication
Govt. of India
Sanchar Bhawan
Ashok Road
New Delhi - 110 001.

3. The Controller General of Accounts
Ministry of Finance
Deptt. of Expenditure
Govt. of India
7th Floor
Lok Nayak Bhawan
Khan Market
New Delhi - 110 003.

... Respondents

(By Shri N.S.Mehta, Advocate)

O R D E R

The facts giving rise to this application can be briefly stated. The applicant who belongs to the Civil Accounts Service under the Controller General of Accounts was appointed as an Accounts Officer with the Ministry of Communication, Department of Tele-communication on 1.12.83 and was posted with the then Overseas Communication Service(OCS). After the formation of Videsh Sanchar Nigam Limited (VSNL) out of the Overseas Communication Service w.e.f. 1.4.86, the applicant was also taken on deemed deputation with the VSNL. The applicant was

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~~thereafter~~ offered a promotion to the post of Dy. Controller of Accounts (in the Senior Time Scale) on ad-hoc basis with a posting to the Ministry of Home Affairs but the VSNL also offered the same promotion in the grade of Deputy Controller of Accounts to the applicant and made a request to his cadre controlling authority to allow his absorption in the VSNL. The applicant was asked to give his consent on 17.3.1988. It was done and a technical resignation from Government Service was given by the applicant on 4.4.1988 to take effect from 29.6.1987, the date of his promotion in VSNL. However, the acceptance of resignation and the applicant's final absorption remained under correspondence and his resignation was accepted on 5.7.1989 with retrospective effect from 29.6.1987. It is this order giving retrospective effect which is the casus belli of this dispute. The applicant claims that the consequent delay involved in payment of terminal and retirement benefits to him entitles him to payment of penal interest thereon.

2. The case of the applicant is that he was absorbed in VSNL w.e.f. 29.6.1987, even though the order of the absorption ^{was} issued on 5.7.1989, i.e. after a lapse of nearly two years. His absorption in VSNL was in public interest and his pensionary and other retirement benefits were to be determined vide O.M. No.4(8)-95-P&PW dated 13.1.1986. In terms of this OM, he was sanctioned DCRG amounting to Rs.56,100 on 8.12.1989. Since he was entitled to this amount on 28.6.1987 on his retirement, the payment was made to him after a delay of over two and half years. This delay was attributable to the Department of Telecommunications on account of their procedures and lethargy and not to any fault on the part of the applicant. Similarly, the pension amounting to Rs.58,550/-, the commuted value of pension amounting to Rs.74,592/- and leave encashment amounting to Rs.21,175/- were also paid after a considerable time i.e. on

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8.12.1989, 26.7.1990, 4.4.1990 and 20.8.1989 respectively, and he is therefore, entitled to be compensated by way of penal interest from the respondents.

3. The respondents in reply contend that the applicant was actually promoted and posted as Deputy Controller of Accounts in Ministry of Home Affairs but instead continued in VSNL and did not get himself relieved. Subsequently he requested the VSNL to absorb him. This was finally agreed to. The respondents contend that this was not a case of normal superannuation from service but a case of technical resignation involving absorption in an autonomous body and time was bound to be taken in completing the formalities and procedures and since payments were made immediately after the issue of order dated 5.7.1989, the question of payment of interest does not arise.

4. I have heard the counsel on either side. Learned counsel for the applicant argued that the respondents plea that in the nature of the case, time was bound to be taken is untenable since specific and detailed orders exist including as regards the absorption of Government employees in central autonomous bodies or public sector undertakings as in OM No.4(8)/85-P&PW dated 13.1.1986. A similar OM of the same number dated 13.10.1986 also lays down the procedure for the discharge of pensionary liabilities etc. He refuted the claim of the respondents that the delay was on account of the desire of the applicant to get absorbed in VSNL and pointed out that the order of July, 1989 (Annexure A-2) clearly stated that the permanent absorption of the applicant in VSNL was being sanctioned in public interest. It was also pointed out on behalf of the applicant that in terms of Government of India, Department of Pension and Welfare O.M. No.4/18/P&PW(D) dated 5.7.1989 the modified pensionary terms for central Government employees being absorbed in autonomous bodies

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and public sector undertakings laid down that the amount of retirement gratuity and lumpsum value in lieu of pension mentioned in clause (iv) above shall remain with the Government, and earn interest at the rate prescribed for General Provident Fund deposits from time to time for the period they remain with the Government. On the date of retirement to the date of payment, interest was liable to be paid on the same by the respondents and hence, it was argued, interest was liable to be paid in the event the funds remained with the Government.

5. I have carefully considered the above argument, and find no merit in the case of the applicant. It is correct that the retirement of the applicant was given effect from 29.6.1987. However, the date of issue of the order is 5.7.1989. Obviously the question of payment of terminal benefits could not arise till the date of issue of the order which, was as mentioned earlier, on 5.7.89. The applicant made a representation to the Secretary, Department of Tele-Communication (Annexure A-6) in reply to which he was informed vide the Department of Telecommunication letter dated 5.2.92 (Annexure A-1) that processing of retirement of permanent absorption involved special formalities, one of which was the submission of technical resignation by the applicant. It is not disputed by the applicant that this technical resignation was submitted by him on 4.4.1988 even though the same was to take effect from 28.6.1987. If the applicant himself submits his resignation on 4.4.88, i.e. nearly 10 months after the notional date of resignation and the department takes another year to process it and to issue the order, the notional date of retirement loses any significance so far as the date of actual payment of terminal and retirement benefits is concerned. In any case, the grievance of the applicant can be against the delay in the order of his absorption and if he was aggrieved by that delay, he should have sought redressal for the same at the

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appropriate time. Since the payments of terminal benefits could not be made till the date of issue of orders, it is immaterial that the retirement was done with retrospective effect just like the technical resignation by the applicant which was also with retrospective effect.

6. In view of the above discussion, I find no merit in the application. It is accordingly dismissed. There shall be no order as to costs.

R. K. Ahooja
(R.K.AHOOJA)

Member(A)

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