

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

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O.A.No.742 of 1993.

New Delhi, this the 23rd day of November, 1993.

Hon'ble Mr B.N.Dhoundiyal, Member(A).

Roshan Singh, 8A, DDA Janata Flat No.250,
Trilokpuri,
Delhi.

.. .. Applicant

(through P.K.Srivastva Advocate,
through none appeared on the date
of final hearing).

vs.

1. Government of India Press,
Minoto Road,
New Delhi
(through its Manager).

2. Union of India through
Secretary, Ministry of Urban
Development, Nirman Bhawan,
New Delhi. Respondents.

(through Mr Jog Singh, Advocate).

ORDER(Oral)

B.N.Dhoundiyal, Member(A).

The case was called earlier on 22.11.1993,
twice but none appeared for the applicant. This
Tribunal ordered that in the interest of justice one
more opportunity may be given to the applicant
and accordingly the case was ordered to be kept
on board. Today also, when the case was called ^{on} twice
in the morning and once in the post-luch lunch
session, none appeared on behalf of the applicant.
I, therefore, proceed to decide the case on the
basis of pleadings and after hearing the learned
counsel for the respondents.

2. The following reliefs have been claimed
by the applicant:

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a) refund of Rs.15,648/- deducted by the respondents as penal rent;

b) interest on provident fund accumulation of the applicant for the period 1.7.1986 to 22.4.1988;

c) full payment of pension from 1.7.1986 to 22.4.1988.

3. The applicant was promoted as Section Holder in July, 1982 in the Govt. of India Press, New Delhi. He filed an O.A., challenging the order of retirement dated 21.1.1985 seeking to retire him on attaining the age of superannuation of 58 years on the ground that the Section Holder was a workmen as defined in explanation attached to F.R.56(b) and his age of retirement should be 60 years. This Tribunal held that since the predominant nature of the duty of the Section Holders is that of supervision, they cannot be categorised as workman, and the Govt. of India had rightly decided on the recommendations of the Categorisation Committee that the Section Holder discharge supervisory work. The application was rejected. The Tribunal noticed that the applicant had been enjoying the benefit of the stay order issued by the High Court and continued in service even after the normal age of superannuation. The following observations were made:

"Since the application is rejected, his continuance in service beyond this date will have to be in the nature of re-employment and not as regular service. During the period of service after 30.6.1986, his re-employment pay will have to be reduced by the pension and pension equivalent of gratuity."

4. Later, the applicant went in Special Leave Petition to the Supreme Court, which passed the

following order:

" We find no merit in the Special Leave Petition. The Special Leave Petition is dismissed. It appears that during the pendency of the petition before the Tribunal the petitioner was allowed to work under interim order for which he drew salary. The respondent-authorities are not entitled to recover the same from the petitioner and the petitioner may not be charged any penal rent during the period he occupied the official accommodation in pursuance to the claim passed by the Tribunal's orders on intervention application."

5. In the counter filed by the respondents, it is contended that he is not eligible for pension for the period from 1.7.86 to 22.4.88 as he was in service as per stay order of the High Court. He was drawing the pension w.e.f. 23.4.88. He retired on superannuation on 30.6.86 (after-noon) and the authority issued orders of pension of Rs.515/-p.m. after deducting 1/3rd of the pension commuted + D.A relief on original pension w.e.f. 1.7.1986. However, the amount of DCRG and gratuity could not be paid to the applicant as he filed an application challenging his retirement at the age of 58 years and obtained a stay order. The stay order was vacated by the Tribunal on 22.4.88 only. During the period of re-employment, he drew full pay and allowances. During this period, he also drew his pension w.e.f. 1.7.1986 to 22.4.1988 from the bank regularly after furnishing false non-employment certificate. The respondents have not recovered the salary drawn during the period from 1.7.86 to 22.4.88, however, the amount of pension drawn by him during this period

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is recoverable. The following dues were shown recoverable from the applicant:

- 1. Pension of Rs.515/- plus DA relief on original pension of Rs.772/- from 1.7.86 to 22.4.88. Rs.12,876.00
- 2. Over payment of monthly salary from 23.4.86 to 22.4.88 Rs.526-00.
- 3. Damaged charges of Licence Fee due to unauthorised occupation of Govt. quarter upto 24.4.90 the vacation date of the Govt. quarter. Rs.15,648-00

 Total: Rs.29,050-00

These were recovered from the amount of gratuity and the cash deposited by the applicant. The payment of DCRG, Gratuity and commuted pension after deducting the dues was made on 3.7.1992. The applicant was entitled to leave encashment of 180 days and he failed to collect a cheque of Rs.9,600/- which was drawn on 23.11.1992.

6. I do not find any substance in the submissions made by the applicant, particularly with regard to his entitlement to draw the pension as well as pay during the period of his re-employment. As regards the damages charged due to unauthorised occupation, it has been clarified that the normal licence fee was charged for the period of re-employment and also during the period from 1.5.88 to 31.10.88. If there was any delay in payment of the amount of DCRG the applicant himself was mainly responsible. It has also been made clear that he has not collected the cheques drawn out for encashment of his pension.

7. In view of the above considerations, I find that this application has no merit and it is hereby dismissed with no order as to costs.

23rd Nov., 1993.
/sds/

B.N. Dheundiyal
(B.N.Dheundiyal)
Member (A).