

(17)

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 5TH DAY OF DECEMBER, 2000

Original Application No.650 of 1997

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

Hari prasad Srivastava
S/o late Shri Bisheshwar Dayal
R/o 166,Ratan Lal Nagar, Kanpur-208022
Retired Assistant Regional Director/Manager
Grade-I, In the office of Employees State
Insurance Corporation, Sarvodaya
Nagar, Kanpur.

... Applicant

(By Adv: Shri D.C.Saxena)

Versus

1. Union of India through Ministry of Labour
Shastri Bhawan, New Delhi.
2. The Director General,ESI Corporation
katla Road, new Delhi.
3. Regional Director,Employees State
Insurance Corporation, Punch Deep
Bhawan, Sarvodaya Nagar,
KANPUR_208005

... Respondents

O R D E R(Oral)
(By Hon.Mr.Justice R.R.K.Trivedi,V.C.)

By this application u/s 19 of the A.T.~~Act~~^{Act}, 1985 the applicant has challenged the order dated 18/19.12.1996(Annexure 1) by which the claim of the applicant for interest on the amount of DCRG had been rejected. It has also been prayed that increment may be granted to the applicant w.e.f 1.8.1983 and respondents may be directed to refix the retiral benefits.

The facts in short giving rise to this application are that applicant was involved in a criminal case registered as criminal case no.178/93. The charges framed in the criminal case were quashed by the High court on 3.5.1989 in criminal misc. application no.2770/84. Applicant retired as Manager Grade-I of Employees Insurance Corporation on 30.11.1985.

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The grievance of the applicant is that though applicant retired in 1985 he was paid the amount of gratuity in 1998. Learned counsel has submitted that the reason stated in the impugned order dated 18/19.12.1996 is that criminal case was pending against the applicant. It is submitted that after the judgement of Hon'ble High Court dated 3.5.1989 no criminal case was pending and there is no justifiable ground on the part of the respondents for non payment of the amount from 1989 to 1998. It is submitted that atleast for this period applicant ought to have been awarded interest. Learned counsel has also submitted that by order dated 1.7.1991 applicant was allowed to cross the Efficiency bar as Manager Grade-I at the stage of Rs.1000-1040 in the revised pay scale of Rs.650-1200 w.e.f. 1.8.1984. It is submitted that the applicant should have been allowed to cross the Efficiency Bar w.e.f. 1.8.1983 and the order is perse illegal. Stating his grievance against the order dated 1.7.1991, applicant filed a representation on 7.8.1991 copy of which has been filed as (Annexure 9). The application has not been decided and is still pending.

The respondents have passed both the orders dated 18/19.12.1996 as well as 1.7.1991 ignoring the fact that the criminal case pending against the applicant was quashed by Hon'ble High court by order dated 3.5.1989. The consequences of which were that the criminal proceedings initiated against the applicant shall be deemed to be non existent for all purposes and applicant should have been paid his retiral benefits without delay atleast after order dated 3.5.1989. in my opinion both orders ignoring this legal aspect suffer from manifest illegality and are liable to be quashed.

The application is accordingly allowed. The order dated 18/19.12.1996(Annexure A1) and order dated 1.7.1991(Annexure A89) are quashed with the direction to the respondents to reconsider the whole matter and pass a fresh order after

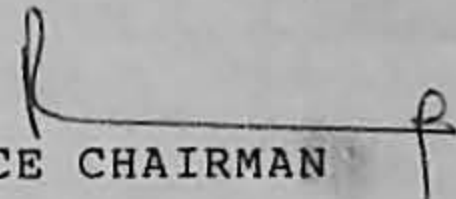


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considering the pleas raised in the application dated 7.8.1991(Annexure A9).^u As the case is very old and refixation of pension is involved, in the ends of justice it appears that the respondents may be directed to consider the whole case afresh and orders shall be passed within three months from the date a copy of this order is filed. To avoid delay it shall be open to the applicant to file a fresh copy of the representation alongwith the copy of this order.

There will be no order as to costs.


VICE CHAIRMAN

Dated: 5.12.2000

Uv/