

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 28TH DAY OF MARCH, 1995

Transfer Application No. 1621 of 1987

HON. MR. JUSTICE B.C. SAKSENA, V.C.

HON. MR. S. DAS GUPTA, MEMBER(A)

Jugal Kishore Sharma

.... Plaintiff/Applicant

BY ADVOCATE SHRI M.A. SIDDIQUI

Versus

Union of India and Ors

.... Respondents

BY ADVOCATE SHRI G.P. AGRAWAL

ORDER(ORAL)

JUSTICE B.C. SAKSENA, V.C.

The applicant filed a suit which was numbered as 22/74. The brief facts indicated in the plaint was that the applicant was an appointee of the year 1935 in the then G.I.P. Railway. The applicant was served with a notice dated 24.1.74 indicating that since he attained the age of 58 years ^{is} He stopped from working. Thereafter the authorities appeared to have reconsidered his representation and allowed the applicant to continue till the age of 60 years and the applicant continued till 15.7.75.

2. The applicant had filed a suit for a decree for Rs.2676/- being the arrears of salary for the intervening period between 1.2.74 to 3.7.75. It appears that the D.P.O, Central Railway, Jhansi by an order dated 24.1.74 had directed the intervening period to be treated as leave period. The applicant had in the said suit sought a declaration that the said order dated 24.1.74 was illegal, null and void.

3. The said suit was subsequently after constitution of this Tribunal was transferred and has been numbered as T.A No.1621/87. The applicant filed a supplementary affidavit

For

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before this Tribunal and also had filed an application for amendment. By the amendment, the applicant had prayed for a decree of Rs. Four and half lacs being the arrears of difference of wages from 3.1.1944 to 31.7.75.

4. At the hearing of the ~~WA~~, the learned counsel for the applicant has given ^{up} the relief for the decree of difference of wages from 3.1.1944 to 31.7.75 and has confined his submissions with regard to the payment for the intervening period viz 1.2.74 to 3.7.75.

5. We have heard the learned counsel for the parties.

6. The learned counsel for the applicant in support of his submission for the intervening period being treated as period spent on duty and for the full salary and allowances has invited our attention to a decision of the Principal Bench reported in (1986) 1 ATC 607 ~~Sadburam Kodumal Vs.~~ Union of India and Ors. The said case involved almost identical question. The applicant in the said case was inadvertently retired w.e.f. 30.6.74 on attaining the age of 58 years and subsequently pursuant to a Ministry's letter he was allowed to join the duty on 17.7.75. The question before the said Bench was also how to regulate the intervening period and the Bench took the view that the applicant was entitled to full salary and emoluments and other consequential benefits and he shall be deemed to be in continuing service till he attains the age of 60 years. For this proposition of law, a reference was made to S.C. Jain Vs. State of Haryana reported in 1985(4) SCC 645 and 'V. Prabhakar Rao Vs. Union of India and Ors 1985 SCC(L&S) 49.

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7. In the present case, in view of the aforesaid Supreme Court decisions we are satisfied that the T.A. deserves to be allowed. The order dated 24.1.74 No.P/PF/JKS/EO passed by the D.P.O Central Railway Jhansi is quashed. The amount for the said period has been indicated in the plaint as Rs.2676/- The respondents are directed to pay the applicant a sum of Rs.2676/- (Rupees Two thousand six hundred and seventy six) only within a period of two months from the date the certified copy of the judgment is made available to the learned counsel for the respondents. The T.A. is disposed of accordingly.

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(S. DAS GUPTA)
MEMBER (A)

B.C.S.
(B.C. SAKSENA)
VICE CHAIRMAN

Dated: 28th March, 1995

Uv/