

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 82 OF 1986.
~~Ex-Axonex~~

DATE OF DECISION 27-10-1986

P.I. PATEL
(Party in person)

Petitioner

Advocate for the Petitioner(s)

Versus

UNION OF INDIA & ORS.

Respondent s

R.P. BHATT

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P.H. TRIVEDI, VICE CHAIRMAN

The Hon'ble Mr. P.M. JOSHI, JUDICIAL MEMBER.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal.

5
2

JUDGMENT

O.A.NO. 82 OF 1986.

Date: 27-10-1986.

Per: Hon'ble Mr. P.M. Joshi, Judicial Member.

Mr. P.I. Patel - the petitioner, a retired Assistant Commissioner of Income Tax, claims gross pension at the rate of Rs. 1468/- per month and additional gratuity of Rs. 14,000/- and other benefits available to him under pension scheme liberalized by G.M.No. F1(12)-EV/84 dated 30.4.1985. According to him, he is entitled to the benefits of the aforesaid scheme as the provision extending benefits only to Government Servants "who retired on or after 31st March, 1985" has been struck down as violative of Article 14 of the Constitution of India in the case of R.C. Gupta, I.R.S., Chief Commissioner of Income Tax (since retired on 30.9.84) Vs. Union of India by Mr. Justice R.C. Mankad on 31st October, 1985 in Special Civil Application No. 4694/85.

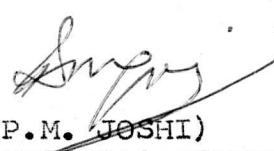
The respondents, have not preferred to contest the application. We were constrained to proceed ex-parte and decide the case on merits after being satisfied that the respondents are duly served. It is borne out that the petitioner made a detailed

representations under his letter dated 12.3.1986, calling upon the Chief Commissioner (ADM) and Commissioner of Income Tax, Ahmedabad to fix his pension as computed under the said liberalized pension scheme and allow the benefits as per the calculation memo (Annexure-I) attached to his letter. The petitioner precisely quoted the instance of Shri R.C. Gupta, who was granted the benefit of the said liberalized pension scheme eventhough he had retired on 30.9.1984 that is five months earlier to the date of his (petitioner's) retirement i.e., dated 28.2.1985. On the basis of the rationale adopted in the case of R.C. Gupta (Supra) the case of the petitioner ought to have been considered by the Respondents. When Mr. Gupta was found eligible to get the benefit under the liberalized pension scheme, the present petitioner can not be denied. The benefit of the said scheme equally applied to him also. It is astounding to note that the Chief Commissioner denied the claim of the petitioner by merely stating that " the benefit (if any) of the decision could not automatically be extended to you" vide his letter dated 23.4.1986 (page 11). It was thus indicated by him that he should also resort to the litigation in order to claim the benefit. This was hardly expected of him. He could have very well taken into account the circumstances which called for the eligibility for the liberalized pension scheme in light of decision of the Gujarat High Court. In not doing so he has certainly committed an error which

was the result of non-application of mind. Thus it deserves to be set right by issuing necessary direction.

In this view of the matter, the application is allowed. It is held that the petitioner is eligible to claim the benefits of the provisions of the pension scheme liberalized by G.M.No.F1(12)-EV/84 dated 30.4.1985. It is directed that the respondents shall compute the revised pension and other consequential benefits available to the petitioner and pay the same within 3 months from the date of this order. The Registry is directed to send a copy of this order to the Respondent No.1. With these directions, the application is allowed with no order as to costs.


(P.H. TRIVEDI)
VICE CHAIRMAN


(P.M. JOSHI)
JUDICIAL MEMBER