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CAT/3/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH
~~NEW DELHI~~

O.A. No. /33

1987

~~XXXXXX~~

DATE OF DECISION 7.3.1991

Shri Dayabhai Arjanbhai Padalia Petitioner

Mr. V. S. Mehta Advocate for the Petitioner(s)

Versus

Union of India & Another Respondent

Mr. B. R. Kyada Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. M. M. Singh : Administrative Member

The Hon'ble Mr. R. C. Bhatt : Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal? *No*

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Shri Dayabhai Arjanbhai Padalia
Suknath Nagar,
Behind Civil Hospital,
Opp. Police Lane,
Gondal (Saurashtra)

: Applicant

Versus

1. The Union of India
Through:
General Manager,
Western Railway,
Churchgate, Bombay.
2. The Senior Divisional
Accounts Officer,
Western Railway,
Kothi Compund
Rajkot.

: Respondents.

Coram : Hon'ble Mr. M.M.Singh

: Administrative Member

Hon'ble Mr. R.C.Bhatt

: Judicial Member

O R A L O R D E R

O.A./33/87

Date: 7/3/1991

Per: Hon'ble Mr. M.M.Singh

: Administrative Member

1. In this application filed under Section 19 of the Administrative Tribunals Act, 1985 the applicant, a retired employee of the Western Railway, alleging delay in the payment of his pension and pensionary benefits has prayed for direction to the respondents to pay him Rs.17.111.55 ps. as interest on these delayed payments. At the time of hearing Mr.V.S.Mehta, learned counsel for the applicant submitted that this amount was calculated on the basis of the date of filing of this application in January, 1987 and that the amount of interest would be liable to be revised upwards taking into consideration interest on interest upto the date of the order of this Tribunal.

2. We have perused the record and heard the counsel for the applicant. The respondents have not contested this application by filing reply for appearance through counsel at the hearing.

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3. Initially the applicant had contested 31.1.1978 as the date of his retirement ordered by the respondents by filing Civil Suit in the Court of Civil Judge, Senior Division, Rajkot, where apparently his claim was that he is due for retirement w.e.f. 31.7.1982 on the basis of 10.7.1924 instead of 5.1.1920 as the date of his birth. The applicant had lost in the Court of Civil Judge, Senior Division, Rajkot. He filed a Civil Appeal in the Court of District Judge, Rajkot district at Rajkot bearing Civil Appeal No.98/83. This Civil Appeal was decided by judgment dated 31.1.1985 in favour of the applicant. The relevant operative part of that order says that the retirement of the plaintiff on the basis of his date of birth as 5.1.1920 is illegal and ineffective and that his correct birth date is 10.7.1924 and that all pension benefits, etc. should be given to him on the basis of the later date. As such it is clear that the calculation of pensionary benefits and pension happened to be delayed because the date of his retirement was disputed by the applicant. The applicant has annexed copy of the respondents reply dated 28.7.1986 bearing No.E.789/5/5/102 of the Divisional Office, Rajkot which informs the applicant that when disputing the date of his retirement by filing Civil Suit, he brought the stay order from the Court against his retirement and as such he was continued in service till the final judgment of the Court in his case was received and that the applicant having initially lost the case went in appeal (mentioned mistakenly as High Court in this letter instead of the Court of District Judge, Rajkot). When judgment of the District Court was received by the respondents, action to revise the pay by increments and working the pensionary benefits on that basis and revision of the pensionary benefits etc. was under way within the stipulated time limit of three months.

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We notice that the allegation in the application on page 4 mentions that the respondents have not paid the pensionary benefits in time. No detailed allegation has been made as to how the time taken by the respondents is not considered 'in time' by the applicant. In the written submissions, reliance has been placed on the State of Kerala v. Padmanabhan Nair AIR 1985 S.C. 356 where Supreme Court ordered payment of interest on grounds of culpable delay. Culpable delay thus has to be alleged and proved by evidence by the applicant to make him eligible for the payment of interest. In this case the judgment of the Court of District Judge, Rajkot being dated 31.1.1985 and of the action to revise the pay increments and to calculate the revised pension and pensionary benefits as per the judgment were taken. The work completed by 31.4.1985. We do not find this duration of time taken by the respondents, when they will be required to study the judgment and reopen the service record of the applicant for taking steps to revise pay, etc. as in any manner excessive much less to be taken as culpable delay. It has also to be taken note of that judgment of the District Judge could be appealed against by the respondents within the period of 90 days and the respondents will be well within their right to scrutinise the judgment from that angle also. Reliance is also placed on what is stated to be a decision of Principal Bench of C.A.T., New Delhi but no judgment has been brought to our notice. What has been brought to our notice is, at best, a summary of the judgment printed somewhere. This summary of the judgment cannot be relied upon as a precedent.

M.A./325/90
in
O.A./33/87

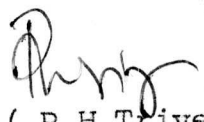
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Coram : Hon'ble Mr. P.H.Trivedi : Vice Chairman
Hon'ble Mr. J.P.Sharma : Judicial Member

7.12.1990

Petitioner in preson present. Mr.B.R,Kyada, learned advocate for the respondent present. Petitioner wants 15 days time to engage an advocate. Allowed. Registry to post the case accordingly.


(J.P.Sharma)
Judicial Member


(P.H.Trivedi)
Vice Chairman

a.a.b.

M.A./325/90

in
O.A./33/87

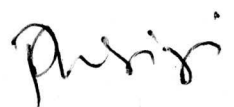
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Coram : Hon'ble Mr.P.H.Trivedi : Vice Chairman
Hon'ble Mr.R.C.Bhatt : Judicial Member

21/02/1991

Heard Shri V.S.Mehta, for the applicant.
Mr.B.R.Kyada, learned advocate for the respondents present.
This is a application for restoration of the O.A./33/87,
made by the applicant. He has alleged in the application
that he had submitted the written arguments to the Tribunal,
but the Tribunal dismissed this case, on the ground of
his non-appearance. It is therefore, prayed in the
application that an order of dismissal be set aside.
This application is allowed. The original application
be restored and heard. We have persued the records of
the original application. M.A./325/90, allowed.
M.A. 325/90, stands disposed of.


(R.C.Bhatt)
Judicial Member


(P.H.Trivedi)
Vice Chairman

AIT