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Shri Chaitsingh Bagh

.. Applicant

Versus

Union of India & Ors.

.. Respondents

CORAM : Hon'ble Mr. G.S. Nair .. Vice Chairman

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

Counsel for Applicant : Mr. P.K. Jani

Counsel for Respondents: Mr. N.S. Shevde

O R D E R

Date : 21.3.1990

Per : Hon'ble Mr. G.S. Nair .. Vice Chairman

Applicant and counsel not present. Heard Mr. N.S. Shevde, learned counsel of the respondents and perused the records.

2. The relief claimed in this application is for a direction to the respondents for payment of the entire amount of gratuity and leave encashment with interest.

3. The applicant was due to retire from service on super-annuation on 31.10.1984 on the basis of his recorded date of birth viz. 21.10.1926. He filed Civil Suit No. 293/84 in the Court of Civil Judge, Godhra and obtained interim injunction restraining the respondents from retiring him, on the ground that his correct date of birth is 30.9.1929. However, on the undertaking by the respondents that if the applicant succeeds in the suit, he will be paid all the benefits as per date

(b)

of birth claimed by him he was relieved from service. His grievance is that the amount of gratuity and leave encashment has not been paid though he has been relieved from service.

4. In the reply filed by the respondents, it is stated that keeping the amount of Rs. 18,000/- in deposit till the ~~different~~^{from his account} of Death cum retirement gratuity and all other dues of the applicant has been paid.

5. At the time of hearing, counsel of the respondents stated that the civil suit filed by the applicant was transferred to this Tribunal and has since been dismissed. In view of the dismissal of the suit it was stated by him that the period of employment of the applicant subsequent to 31.10.1984 has to be treated as re-employment and the over-payments made ^{to} ~~by~~ the applicant during the said period have to be recovered and it is on this circumstance that the amount of Rs. 18,000/- has been withheld.

In the circumstances, there is no scope for a direction as prayed for by the applicant.

Application is dismissed.

M. M. S

(M M Singh)
Administrative Member

21-3-90
(G S Nair)
Vice Chairman