

26 (5)

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

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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 <sup>from the amount</sup> till the ~~different~~ 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 21.10.1984 has to be treated as re-employment and the over-payments <sup>to</sup> made ~~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.   
( M M Singh )  
Administrative Member

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

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