

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

⑥

O.A. No. 303 OF 1991.
~~XXXXXX~~

DATE OF DECISION 18.06.1992.

Shri Pankaj Kumar N. Sheth Petitioner

Shri K.K. Shah Advocate for the Petitioner(s)

Versus

Union of India and ors. Respondent

Shri Akil Kureshi Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. Justice D.L. Mehta : Vice Chairman

The Hon'ble Mr.

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 ?

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Shri Pankaj Kumar N. Sheth,
C/o. Kiran K. Shah,
Advocate,
3, Achalayatan Society II,
Near Memnagar Fire Station,
Navrangpura,
Ahmedabad.

...Applicant.

(Advocate : Mr.K.K.Shah)

Versus

1. Union of India,
Notice to be served through
The Director of Accounts (Postal)
Nagpur - 440 001.
2. Sr.Supdnt. of Post Offices,
Kheda Division,
Anand - 388 001.

...Respondents.

(Advocate : Mr.Akil Kureshi)

O R A L J U D G M E N T
O.A.NO. 303 OF 1991.

Date : 18.6.1992.

Per : Hon'ble Mr.Justice D.L.Mehta : Vice Chairman

Heard Mr.K.K.Shah, and Mr.Akil Kureshi,
learned counsel for the applicant and the respondents.
The petitioner submitted in the application, praying
that the impugned order Annexure-A, and Annexure-A/1,
may be quashed and he has further prayed that the
respondents may be directed to pay the commuted pension
to the applicant with all consequential benefits.

Brief facts of the case are that the father
of the petitioner retired on 15.2.1989. He could not
get the pensionary benefits on technical ground. The
application was submitted by his sons, vide Annexure-
A/1, the Accounts Officer ^{raised} received the very higher

technical objection that the employee is not entitled.

^{as he has}
~~Hence the said~~ moved the application for the commutation of the pension before the date of his retirement.

It was also stated therein that such application is in contravention of Rule 48 A (3-A) (b) of C.C.S.

(pension) Rules 1972 and Rules 13 (1) (a) of C.C.S.

(Commutation of Pension) Rules, 1981. On behalf of the respondents the reply has been filed, that ~~under~~ Clause-I of Rule-13, there is a provision that the applicant is in receipt of any pension referred to in Rule-12 and desires to commute a fraction of that pension any time after the date for the date of his retirement from service but ~~Before~~ the expiry of one year from the date of retirement, shall apply to the Head of the Office in Form-I, after the date of his retirement. It will not be out of place here to mention that pensionary benefits are legal rights of the employees who is retiring after ^{exhausting the} rendering service after his best period of his life.

It is neither a gift nor a concession extended by the State. It is the fulfilment of the duty by the State.

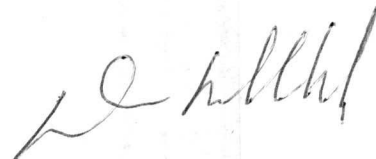
Rule-13, Clause-I, has not been properly interpreted

by the respondents. It only empowers the employee to move within one year of the retirement for the commutation specifically of pension. It does not prohibit the application

before retirement. Ordinarily the application should be moved prior to retirement so that while lying down the Office he may go with a cheque of all pensionary benefits

(a)

to which he is entitled. This will be proper that the employee will not have to move from pillar to pillar for getting the pension or pensionary benefits. Delayed payment may make one hardship and loss to the employee, such interpretation can not be made and I do not find any force in the submission made by Mr. Akil Kureshi in his reply. The application is accepted. Respondents are directed to make the payment of the commuted pension within a period of three months from today, to the legal heirs of the deceased Mr. Pankaj Kumar N. Sheth. The application stands disposed of. No orders as to costs.





(D.L.Mehta)
Vice Chairman

AIT

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M.A. 349/92 in ~~xxxxxx~~ O.A. 303/91.


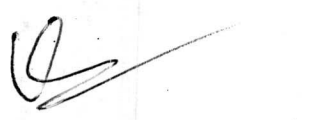
Date	Office Report	ORDER
2-11-1992		<p>xxxx M.A. 349/92 has been filed by the xxxxxxxxxx original respondents to seek extension of time in complying with that original order. The original order was passed on 18-6-1992 requiring compliance within three months from that date i.e on or before 18-9-1992 We would like to hear the learned Counsel on two points to (1) Whether the M.A. which ^{is} so delayed can be entertained. (2) Whether the extension of time sought for in these circumstance ^{can} may be granted. Copy of the M.A. has been served on the counsel, ^{2 sep} Call on 25-11-1992.</p> <div><div> (R.C.Bhatt) Member (J)</div><div> (N.V.Krishnan) Vice Chairman.</div></div> <p>*AS.</p>



M.A. 344/92

in

O.A. 303/91

(11)

Date	Office Report	O R D E R
<p>(6) 25.11.92</p>		<p>Present: Mr. Akil Kureshi, Adv/Apt. None for the respondents.</p> <p>At the request of the counsel for the original respondents, who has filed M.A. 344/92. List for orders on 7th December, 1992.</p> <div data-bbox="805 1013 1045 1144"> (R.C. Bhatt) Member (J)</div> <div data-bbox="1244 960 1556 1144"> (N.V. Krishnan) Vice Chairman</div> <p>vtc.</p>

DATE	OFFICE REPORT	ORDERS.
7.12.92 20		<p>Shri Akil Kureshi for the xx original respondents , who have filed M.A.344/92 seeking the extension of time to comply with the original orders. Shri K.K.Shah for the original applicant. ^{Time sought in} M.A. is ^{has} already expired. ^{become} This M.A. has been infractous and it is ^u dismissed.</p> <p> (R.C.BHATT) MEMBER (J)</p> <p> (N.V.KRISHNAN) VICE CHAIRMAN</p> <p>*SS</p>

M.A./344/92

in

O.A./303/91

DATE	OFFICE REPORT	ORDERS.
7.12.92 D		<p data-bbox="556 381 1448 804">Shri Akil Kureshi for the xx original respondents , who have filed M.A.344/92 seeking the extension of time to comply with the original orders. Shri K.K.Shah for the original applicant. M.A. is already expired. This M.A. has been infractous and it is dismissed.</p> <div data-bbox="541 941 742 1041"><p>(R.C.BHATT) MEMBER (J)</p></div> <div data-bbox="1105 954 1372 1054"><p>(N.V.KRISHNAN) VICE CHAIRMAN</p></div> <p data-bbox="556 1103 616 1141">*SS</p>