

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. NO. 504/92

~~Case No.~~

DATE OF DECISION 10th November, 1995

Mr. Abdulrahim Shaikh **Petitioner**

Mr. M.A. Kadri **Advocate for the Petitioner (s)**

Versus

Union of India & U/s. **Respondent**

Mr. Akil Kureshi **Advocate for the Respondent (s)**

CORAM

The Hon'ble Mr. K. Ramamoorthy : Member (A)

The Hon'ble Mr.

JUDGMENT

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

No

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Abdulrahim Shaikhubhai Shaikh
Mohalatwad,
Paldi,
Ahmedabad.

..... Applicant

(Advocate : Mr. M.A. Kadri)

Versus

- 1) Union of India, through
Ministry of Communication of India
Department of Posts, Dak Bhavan,
Sansad Marg, New Delhi.
- 2) The Post Master General
Gujarat Circle ,
Khanpur,
Ahmedabad.

(Advocate : Mr. Akil Kureshi)

JUDGEMENT

Date 10.11.1995

In

D.A. No:504/92

Per : Hon'ble Shri K. Ramamoorthy : Member (A)

The application is in respect of recovery of claims, in respect of encashment of leave and short payment in respect of pension.

The applicant had joined postal department as a Packer, and he had been promoted as a Postman from 1.1.1947. He was confirmed as a Sorter-postman from 1.10.1977 and voluntarily retired from service on 31.1.1981 after completion of 33 years of service in the postal department.

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His claim is on the following two grounds.

- 1) He had not been given leave encashment facility for the leave period due at the time of his voluntarily retirement.
- 2) There had been an error in fixation of his salary at various times when his salary became due for revision, consequent to different pay commission recommendations. In fact, in the application he had specifically stated that even as per current pay fixation, he had reached the maximum of his pay scale on 1.1.1978. Consequent to this blockage he was entitled to two increments as personal pay.

It is the contention of the respondents that both the grounds of the applicant had no base. As regards leave encashment, extension of this facility for the person who voluntarily retired was given only in October, 1981, whereas the applicant had retired voluntarily on 31.1.1981, Till October, 1981 the leave encashment was available only to those persons who had retired on superannuation. As regards the fixation of pay, the respondents have made available two copies of the service book, wherein various entries refixing pay had been made, certified and checked from time to time. Abstract of this was also made available to the applicant. It would be seen that the claim of the

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applicant that he had reached maximum of his salary scale in 1978 is not borne out by the records.

The counsel for the applicant and respondents were heard at length.

As regards the leave encashment, the position is clear that the government has extended benefits of leave encashment facility to the person who had voluntarily retired only in October, 1981. The learned counsel for the applicant made a plea that though the applicant had sought voluntary retirement, since he retired after completion of 33 years of service, he was even otherwise entitled to full pension. Therefore, his case should be considered as one ~~which~~ ^{of} retiring on superannuation. This argument of the learned counsel for the applicant cannot be accepted, since the rules are clear in this regard that retiring on superannuation refers to retirement on reaching ^a ~~a~~ particular age of superannuation only. Therefore, question of treating the case ^{as} ~~being one of having~~ ~~deemed~~ to have retired on superannuation does not arise.

As regards the other ground relating to wrong pay fixation, it is clear from the records that the claim of the applicant that he had reached maximum of the pay scale in 1978 as stated in Para 4(L) of the O.A. is not borne-out by the entries in the records. As regards errors that might have occurred in fixing of his salary at various stages,

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it is seen that various entries regarding pay fixation are duly verified and signed by the head of the offices and other attesting officers from time to time. There are also other verifications in service book. The applicant has also been receiving salaries on this basis. If therefore, applicant had any grievance that the entries were not proper and salary had not been properly fixed at the various stages as per the pay commission recommendation, such a plea at this stage is hopelessly time barred and is to be rejected on the ground of delay and laches alone. Even otherwise the applicant has not been able to show any instance of specific mistake or any instance of the applicant having made an issue thereof prior to this application. Hence this contention of the applicant is also not upheld.

The application is rejected, without however, any order of costs.



(K. Ramamoorthy)
Member (A)

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