

NOTES OF THE REGISTRY

were issued on 3-4-2001 to appear and show cause today. Therefore the MA filed earlier seeking four weeks time is not maintainable. It is urged by the learned counsel, since the MA is for consideration today, time may be granted. As the MA is not maintainable at this stage, I reject the M.A.

No answer is filed.
Put up before the Bench
for further order
26/8/2001

REGISTRAR

Counter filed - copy
served. For further orders

21/9/01
Rejoinder not filed

My
6/9/2001
Bench
J.D.M

Rejoinder not filed

My
28/7/2001
Bench

ORDERS OF THE TRIBUNAL

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05. 03. 08. 01

Pleadings are complete. At request adjourned to 08.08.01 for hearing and final disposal at the stage of admission.

vice-S. P. D. M.
3/8

Member (J).

06. Order dated 8.8.2001

Heard Shri D.P.Dhalasamant, the learned counsel for the petitioner and Ms.S.L. Patnaik, learned A.S.C. and perused the records.

In this O.A. the petitioner has prayed for a direction to respondents to sanction final pension ~~in~~ her favour along with interest at the rate of 18% per annum. Respondents have filed their counter opposing the prayer of the applicant. After going through the pleadings of the parties we find that on the basis of the averments made by the respondents themselves in their counter, this O.A. has to be allowed.

According to respondents, the applicant was appointed on compassionate grounds as Sweepress under the respondents and she joined the said post on 31.8.1985. At the time of her appointment her date of birth was taken as 6.3.1930. Later on the date of birth was revised and changed to 6.3.1940 vide P.M.G.'s letter dated 17.6.1985. On attaining the age of superannuation of 60 years going by her date of birth as 6.3.1940, the applicant superannuated on 31.3.2000. Pending sanction of pension in her favour, she was granted provisional pension from 1.4.2000 to 31.12.2000. Thereafter the provisional pension was stopped and final pension was also not sanctioned in her favour. It is submitted by the respondents in their counter that during the inspection by D.D.A.

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

Rejoinder filed, copy served. For further order.

Bench

W
2/8/2001

For admissions and hearing.

Bench

W
2/8/2001

~~which he~~
Postal Accounts objected to the correction of date of birth of the applicant. In view of this respondents have stated that they are making further enquiry into the matter. It is stated that if the applicant's date of birth is taken as 6.3.1930, then her date of retirement would be 31.3.1990, in which case she would have put in only less than five years of service, having been appointed on 31.8.1985 and therefore, she will not be entitled to pension. Because of this pension has been stopped.

We are amazed at the above logic adopted by the respondents in their counter. Going by the case of the respondents themselves, the applicant was appointed on 31.8.1985 and at that time her date of birth was taken as 6.3.1930. It has been submitted by the learned counsel that in the appointment order issued to the applicant vide Annexure-1 of the O.A. - not denied by the respondents in their counter applicant's date of birth was written as 6.3.1940. Be that as it may, according to respondents, applicant's date of birth was taken as 6.3.1930 and later on under the orders of the P.M.G. this was changed to 6.3.1940. Before changing the date of birth if it had been ~~earlier~~ written as 6.3.1930, the respondents must have taken care to check up the correctness of the date of birth as 6.3.1940. As the date of birth has been revised as 6.3.1940 and accordingly the applicant has been allowed to superannuate on 31.3.2000, in the process she had rendered 14 years and some months of service. In view of this, we hold that the applicant is entitled to pension, and accordingly we direct the respondents to sanction final pension in favour of the applicant within a period of 90 (ninety) days from the date of receipt of copies of this order.

So far as other aspect with regard to payment of 18% interest on arrears pension/provisional pension is concerned, we find that

J. J. S.

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in the fact and circumstances of the case there was some audit objection and thereby the finalization of pension might take sometimes. In view of this we do not think that this is a case where interest should be allowed on arrears pension amount. However, we direct, if final pension is not sanctioned in favour of the applicant within the time, as stipulated above, then from the date of expiry of the said period, interest at the rate of 12% (twelve per cent) will be payable to the applicant on the arrears of pension till the final pension is sanctioned in favour of the applicant.

With the above observation and direction, this O.A. is allowed, but without any order as to costs.

L.M.
MEMBER (JUDICIAL)

Om Nath
VICE-CHAIRMAN
8/8/2001

Face copy of order
afft 8/8/2001 issued to
the counsel for both
sides.

R. Agarwal
S.O.

M
10/8/2001