

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

D. A. No. 240  
T. A. No.

1991

DATE OF DECISION 12.2.1992

P. Rajan Menon Applicant (s)

Mr. Raju Abraham Advocate for the Applicant (s)

Versus

Union of India represented by Respondent (s)  
the Addl. Secretary & Financial Adviser  
Govt. of India, M/o Commerce, New Delhi and others

Mr. V. Ajithnarayanan, ACGSC Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. N. V. KRISHNAN, ADMINISTRATIVE MEMBER

The Hon'ble Mr. N. DHARMADAN, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? No
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. To be circulated to all Benches of the Tribunal? No

JUDGEMENT

MR. N. DHARMADAN, JUDICIAL MEMBER

The applicant is a retired employee. He sought voluntary retirement from service as Controller of Imports and Exports on 12.11.1979. But this was not granted. By letter dated 22.4.80 of the second respondent the date of retirement was preponed to 3.2.79 taking into account the leave "not due" taken by the applicant. Since there was real dispute with regard to the actual date of retirement, he filed O.P. 3709/80 before the High Court of Kerala. This was later transferred to this Tribunal and disposed of by Annexure A-1 judgment dated 9.9.1987. The dispute was settled in the following manner:

"... Accordingly, while we hold that there is no need to quash Ext. P-6 order intimating that the date of retirement of the applicant as 3.2.79, we allow

the applicant's prayer that his emoluments for ten months be calculated for determining his pension, as if he continued as Controller of Imports and Exports."

2. On receipt of the judgment, the applicant submitted Annexure A-2 representation before the Deputy Chief Controller of Imports and Exports requesting xxx to consider applicant's representation dated 20.3.80 for commutation of pension without medical examination. This was replied to by Annexure-A-3 directing him to fill up part (a) of the form/ <sup>and</sup> forwarded the same to the office so as to enable them to take steps for grant of commutation of pension. This was complied with by the applicant as indicated in Annexure A-3 (a) with a request that the application now submitted should be treated as an application having been submitted on 20.3.80, the date of the original application. The fourth respondent issued authorisation dated 23.3.89 for disbursement of Rs. 18,247/- as against the applicant's actual eligibility of commuted value of Rs. 22,971/- as sanctioned from Annexure A-3 (b). The pension fixed was also produced as per Annexure A-3 (c). According to the applicant, the delay of payment of commuted value of pension makes him eligible for interest @ 12%. The DCRG was also not disbursed to the applicant in time. He has submitted representations for getting interest and ultimately filed this application with the following prayers:

- "a. The applicant therefore prays for interest of Rs. 8050/- as per para 11 for delayed payment and Rs. 18303/- as per para 15 for delayed payment of DCRG and commutation of pension.

b. The applicant prays for ..

- b. The applicant also prays that his claim for 1/3 of commutation of Rs. 1228/- which he had actually drawn on the date of commutation viz. 23.3.89 may be granted."

3. In the reply statement filed by the second respondent he has stated that in Annexure A-1 judgment, this Tribunal observed that the date of retirement of the applicant has to be taken as 3.2.79 but there is no direction to re-open the issue of commutation and grant the same effective from earlier date in every respect. The date of the decision of this Tribunal is 9.9.1987 and the date of filing of the revised application for commutation is dated 26.7.1988. The age of the applicant on the next date of birth is 62 years (Rate : 9.48). But the applicant was allowed rate applicable for 61 years. xxxxxxxxxxxx. Since the applicant has already enjoyed full pension till the date of receipt of the commutation amount, he cannot raise the claim for interest for the delay, if any, in the matter of grant of commutation. The commutation amount was paid on 23.2.89 (higher rate applicable at 61 years as against 63 years as on the date of payment of commutation value). Thus, having enjoyed full pension after 63 years, the applicant cannot claim commutation as applicable to 62 years.

4. Regarding the payment xxxxxxxxxxxx of interest for respondents <sup>to</sup> DCRG from 3.5.79 to 18.4.90 the/have stated that so far as the applicant was concerned, the quantum of DCRG to be paid to the applicant became due only when the request for voluntary retirement has been accepted. In the case of the applicant, the request was accepted only on 12.11.79

and on that analogy the due date for payment of DCRG was 12.5.80. The pension/DCRG papers were prepared and forwarded to the Regional Pay and Accounts Office on 21.12.79. The RPAO by letter dated 21.1.80 wanted pension calculation to be revised and forwarded the proposal to him. The pension and DCRG was sanctioned as per order dated 22.3.80 but as required by RPAO, stamped receipt was called for from the applicant as per letter dated 18.4.80 and the applicant submitted the same only on 27.4.82. In spite of the difficulties, the DCRG could be sanctioned before the due date. Hence, no interest as claimed by the applicant is payable in the case. On the basis of the decision of the Tribunal, average emoluments of the petitioner was calculated as though he continued to work as Controller of Imports and Exports from 26.12.79 to 2.2.80. DCRG was again calculated and an amount of Rs. 3474/- was paid to the applicant. The second instalment of DCRG was also finally paid to him on 20.3.88. There was no delay warranting payment of interest. So far as the claim of the applicant for payment of interest on commuted value of pension, it cannot be accepted because for the 17 months i.e. from the date of CAT's judgment on 9.9.87 to 23.2.89 he had enjoyed Rs. 155/- per month (total Rs. 2635) which he would have received if the amount was paid on 9.9.87. This amount is more than the interest Rs. 2093/- claimed by the applicant in this behalf.

5. We have heard the arguments and considered the documents. The claim for the interest by the applicant for the alleged

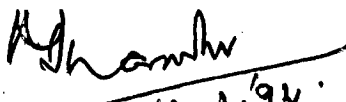
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delay in disbursement of DCRG and the commuted value of pension is presumably based on the judgment of this Tribunal Annexure A-1. Till the final decision by the Tribunal, it was not clear as to what exactly the date of his actual retirement because there was a dispute existing as to whether 12.11.79 or 3.2.79 is to be accepted in this case. After the settlement of the issue, there was some difficulty with regard to the procedural formality for revising the calculations. The applicant was called upon to submit the forms to be filled up in accordance with the directions and they were also submitted only on 27.7.88. Though the applicant requested that the revised application should be treated as substitute one having been submitted on 20.3.80, it was not granted and hence, the calculations made by the respondents based on the revised application can alone be accepted for the purpose of disbursement of retiral benefits to the applicant. There was also some delay on the part of the applicant in submitting the papers/as directed by the authorities and stamped receipt <sup>✓</sup>. So, we cannot attribute the default and delay on the part of the respondents for awarding interest on the facts and circumstances of the case. The claim for payment of interest made by the applicant has been clearly explained by the respondents in the reply statement and we feel that the explanation given are satisfactory under the circumstances of this case.


6. In the result, we are of the view that it is not practicable to consider the request of the applicant for

commuted value of pension w.e.f. 20.3.80 as claimed by him in this case. The applicant could have raised the question of interest and obtained a decision in the earlier O.A. 543/87 already filed by him. This also appears to be a failure on the part of the applicant.

7. In the result, having regard to the facts and circumstances of the case, we are of the view that there is no merit in the application and it is only to be rejected. Accordingly, we dismiss the same, without any order as to costs.

  
12.2.92

(N. DHARMADAN)  
JUDICIAL MEMBER

  
12.2.92

(N. V. KRISHNAN)  
ADMINISTRATIVE MEMBER

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

R.A. 34/92 in  
O. A. No: 240/91  
T. A. No.

199

DATE OF DECISION 20.1.92

Mr. P. Rajan Menon Applicant (s)

Mr. Raju Abraham Advocate for the Applicant (s)

Versus

Union of India rep. by Addl.  
~~Secretary, Ministry of Commerce, Govt of India~~ Respondent (s)  
New Delhi and others

Mr. V. Ajith Narayanan, ACGSC Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. N. V. KRISHNAN, ADMINISTRATIVE MEMBER

The Hon'ble Mr. N. DHARMADAN, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement?
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JUDGEMENT

MR. N. DHARMADAN, JUDICIAL MEMBER

The applicant in O.A. 240/91 has filed this application for review of the order of the Tribunal dated 12.2.92 on the ground that there is error in the judgment as the application has been dismissed taking into consideration the delay in approaching the Tribunal.


According to the review applicant, the benefit which are due to the applicant from the Department is a recurring one <sup>and hence by</sup> there is no delay in filing the O.A. We have heard the arguments on the R.A. We have considered all the arguments advanced by the learned counsel for the applicant at the time of hearing and in fact the application <sup>was by</sup> is not dismissed on delay. It is only after considering all the relevant <sup>contentions raised by</sup> factors in the facts and circumstances of the case that we have passed the judgment. We see no error apparent on

the face of the records warranting review of the judgment.

We <sup>also</sup> see no merit in the review application. It is accordingly dismissed.

  
(N. DHARMADAN)  
JUDICIAL MEMBER

20.3.92

  
(N. V. KRISHNAN)  
ADMINISTRATIVE MEMBER

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