

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA.

REGISTRATION NO. RA 7 OF 1998
(Arising out of OA 464/96)

DATE OF ORDER : 24/05.2000

The Union of India, through Officer Special Duty,
Ministry of Coal, Jagjiwan Nagar, Dhanbad.

.....APPLICANT

By Advocate Shri D.K. Jha. Addl. Standing Counsel
Versus

Shri Hawaldar SinghRESPONDENT.

By Advocate Shri M.P. Dixit. & Shri Ashok Kumar.

C O R A M

Hon'ble Mr. L. Hmingliana, Member (A)

O R D E R

L.Hmingliana, Member (A):-

The application is for reviewing the
Tribunal's order dated 26.5.1997 allowing the OA 464/96
for grant of prorata pensionary benefits to the
original applicant with effect from 1.10.1986.

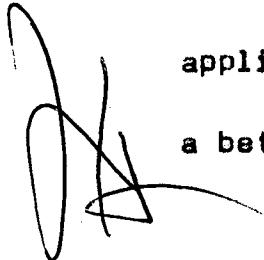
2. However, the ^{original} applicant, who is now
respondent in the RA, was in service of the Coal Mines
Labour Welfare Organisation (in short CMLWO) from 1.4.1966
till 30.9.1996, when the Organisation was wound up and
merged with the Coal India Limited (in short CIL). The
Regional Pay & Accounts Officer, Dhanbad issued in 1996
the order for payment of his pension to commence from
1.4.1996. His OA was for quashing the order, and for
direction for payment of his pension with effect from
1.10.1986. ^A The Single Member Bench of the Tribunal heard

the OA, and granted relief to the original applicant for payment of his prorata pension with effect from 1.10.1986, on the lines of the relief granted earlier by the Tribunal on 31.8.1984 in OA 320/93 for payment of prorata pension to Mithilesh Saran Prasad, the applicant therein. Shri Prasad was also absorbed in CIL like the present ~~original~~ applicant, after the winding up of the CMLWD, where he had also been working. The respondents in that OA 320/93 filed SLP in the Supreme Court against the order of the Tribunal granting relief to Shri Prasad, and the Supreme Court disposed of the SLP on 21.8.1995 with the following observations:

" In view of the counter-affidavit filed by respondent that he has not received any amount of contributory Provident Fund from the Government or he has not claimed any amount thereunder, and he is entitled to the pensionary benefits, In that view of the matter the special leave petition is disposed of."

After examining the Supreme Court's order, the respondents in OA 320/93 granted prorata pension to Shri Prasad.

3. Thus, the impugned order of the Tribunal was granted on the lines of the relief granted to Shri Prasad, who was similarly placed as the applicant. In fact, Shri M.P. Dixit, the learned counsel for the original applicant pointed out that the original applicant had a better case for grant of relief than Shri Prasad, as

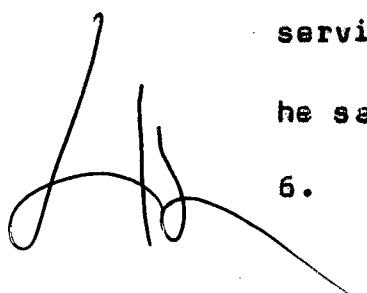


he had been confirmed in CMLWO, whereas Shri Prasad was not.

4. The case for review of the impugned order, as made out in the RA is that in the written statement filed on their behalf in the OA, it was categorically stated that the OM dated 5.7.1989 is not applicable to the case of the original applicant, as the provisions of the OM are applicable to those government servants who have been transferred to PSUs after the issue of the OM, and those who have been transferred prior to that were required to be regularised under the previous OMs dated 8.9.1993 (?), 13.1.1986 and 30.10.1986, ~~as~~ as per Rule 37 of the CCS (Pensions) Rules, and as per the terms and conditions of their transfer. It is also stated in the RA that the original applicant himself had admitted that the OM dated 5.7.1989 was not applicable to him, as he had requested for payment of full commutation of pension, and that has not been taken into consideration in the impugned order.

5. Shri D.K. Jha, the learned Addl. Standing Counsel appearing for the review applicants/(respondents in OA) contended that the prorata pension would become payable only after the employee had put in qualifying service for premature retirement with pension, which, he said, was 20 years of service.

6. The review applicants (respondents in OA)



had approached Patna High Court with CWJC No. 9835/97, and the High Court by order dated 17.11.1997 disposed of the petition with direction that, if so advised, the petitioners may file an appropriate application for review in the Tribunal. The review application was filed on 24.2.1998, which was beyond the limitation period from the date of the High Court's order. On my query Shri Jha stated that the copy of the order of the High Court was issued on 12.12.1997, and the matter was referred to the Ministry, and on its direction, the review application was filed.

7. That is not an adequate explanation for filing the review application beyond the stipulated period of limitation. The RA is time barred. Apart from that the previous order of the Tribunal in OA 320/93, granting relief to another person who was similarly placed as the applicant has become final, and there is no merit in the review application.

8. The review application is dismissed, with no order as to costs.

/CBS/


(L. HMINGLIANA)
MEMBER (A) *St 5300*