

(15)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

O.A. NO: 183/87

199

~~T.A. NO:~~

DATE OF DECISION 3.11.1992

Shri G.G.Gujar

Petitioner

Shri D.V.Gangal

Advocate for the Petitioners

Versus

Union of India & Ors.

Respondent

Shri V.M.Bendre for Shri P.M.  
Pradhan

Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. Justice S.K.Dhaon, Vice Chairman

The Hon'ble Mr. Usha Savara, Member (A)

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 ?

S.K.Dhaon  
(S.K.Dhaon)  
Vice Chairman

mbm\*

(16)  
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH, BOMBAY

OA.NO. 183/87

Shri G.G.Gujar

... Applicant

V/S.

Union of India & Ors.

... Respondents

CORAM: Hon'ble Vice Chairman Shri Justice S.K.Dhaon  
Hon'ble Member (A) Ms.Usha Savara

Appearance

Shri D.V.Gangal  
Advocate  
for the Applicant

Shri V.M.Bendre  
for Shri P.M.Pradhan  
Advocate  
for the Respondents

ORAL JUDGEMENT

Dated: 3.11.1992

(PER: S.K.Dhaon, Vice Chairman)

The prayer is that the respondents may be directed to pay to the applicant deputation allowance from 27.1.1971 to 8.2.1983.

2. A reply has been filed. A rejoinder affidavit too has been filed. Counsel for the parties have been heard.

3. The applicant was originally appointed as Junior Engineer in the Central Public Works Department under the Union of India. On 28.6.1963 he was officiating as Assistant Engineer. On 22.6.1963 the applicant was transferred from C.P.W.D. to the Posts and Telegraphs Department. The applicant along with two other similarly situated persons preferred a Special Civil Application No. 1045 of 1974 before the High Court at Bombay. It was disposed of finally on 20.6.1979. One of the controversy before the Bombay High Court was as to whether the applicant and the other two petitioners therein were entitled to be paid deputation (duty) allowance at the rate of 20 percent of the basic pay from 1st July 1963 till they

continued to hold any post in the Posts and Telegraphs Department. The High Court, in substance, held that the applicant and others ~~who~~ were entitled to be paid the deputation allowance till they continue to be on deputation with the Posts and Telegraph Department.

4. In the High Court at Bombay, the applicant claimed the payment of deputation allowance from 1.7.1963. The High Court ultimately directed: "the petitioners are, therefore, entitled to a writ directing the Union of India to pay to the petitioners such deputation allowance as they are entitled <sup>to</sup> under the Rules as long as they are on deputation."

5. In this application, the prayer is that the respondents may be directed to pay to the applicant the deputation allowance from 27.1.1971 to 8.2.1983. In the reply filed, it is admitted that the applicant was paid deputation allowance for the period from 1.7.1963 to 27.1.1971. It is, thus, not denied that no deputation allowance was paid to the applicant on and after 27.1.63.

6. Learned counsel for the respondents has urged that the remedy, if any, of the applicant was and is to initiate contempt proceedings against the respondents on the ground that they have acted in violation of the order passed by the High Court of Bombay. We are not impressed by this submission. The High Court held that the applicant was entitled to be paid deputation allowance. It appears that, as already indicated, such an allowance was paid to the applicant by the respondents from 1963 to 1971. Even if the applicant had instituted contempt proceedings, it is doubtful whether the High Court ~~should~~ have directed the respondents to pay the balance of the allowance. Moreover, the mere fact that the applicant could initiate contempt proceedings did not debar him from taking such proceedings as were available to him under the law to compel the respondents to pay him the arrears of the allowance.

7. The second contention urged is that this is a belated application and therefore the same should be dismissed as barred by limitation. An explanation has been offered in paragraph six of the application. The material averments are these. In spite of representation to the P&T Department to sanction deputation allowance from 27.1.1971 onwards, no reply was given. By a notice dated 4.1.1984 the respondents were called upon to pay the deputation allowance. The applicant having retired on 27.10.1983 without settlement of any pensionary benefits (having received DCRG in April 1984 and GPF in November 1984 only) and no pay for 8 months having been paid to him since February, 1983, he, having been evicted from P&T staff quarters on the threat on penal rent deductions, was not in a fit state of mind on account of financial instigency to initiate proceedings before this Tribunal. He again represented on 18.8.1986 but in vain. These averments have not been denied in the reply filed on behalf of the respondents. On the uncontroverted facts stated in the application, we feel that a case has been made out for the condonation of delay in filing this application.

8. This application succeeds and is allowed. The respondents are directed to pay to the applicant the deputation allowance as permissible under the law w.e.f. 27.1.1971 till 8.2.1983. The amount payable shall be quantified in accordance with the rules and paid to the applicant within a period of two months from today. There shall be no order as to costs.

*U. Savara*  
(MS. USHA SAVARA) 8.11.92.  
MEMBER (A)

*S.K. Dhaon*  
(S.K. DHAON)  
VICE CHAIRMAN