

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

~~XXXXXX~~ 486/87

T. A. No.

198

DATE OF DECISION 17.6.1991

Dattatraya Prabhakar Marathe Petitioner

Mr. K. P. Tipnis Advocate for the Petitioner(s)

Versus

Union of India and others Respondent

Mr. R. K. Shetty Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. U.C. SRIVASTAVA, Vice-Chairman,

The Hon'ble Mr. M. Y. PRIOLKAR, 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 ?

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH

TRANSFER APPLICATION NO.:486/87

Dattatraya Prabhakar Marathe,
Residing at 752/Budhwar Peth,
Bhadke Wada, Juni Tapkir Galli, Pune-2
Deceased

.... Applicant

Vs.

Union of India
and others.

.... Respondents

CORAM : HON'BLE SHRI U.C.SRIVASTAVA, Vice-Chairman,
HON'BLE SHRI M.Y.PRIOLKAR, MEMBER(A)

Appearance:

Mr.K.P.Tipnis,Adv,
for the Applicant

Mr.R.K.Shetty,Adv,
for the respondents.

ORAL JUDGMENT

DATED:17.6.1991

(PER: U.C.SRIVASTAVA, Vice-Chairman)

This application is made for bringing the legal representatives of the deceased on records. The applicant died on 23rd November 1988. This application was made for substitution on 1.11.1990 one year after the death of the deceased. The explanation given by the heirs and legal representatives is that they were not aware of the proceeding earlier. It is learnt when they found a letter written by the Advocate of Bombay to the father of the applicant, they made an inquiry and learnt that the petition is transferred to this Tribunal. Thereafter they contacted another advocate, who is now moving the application. The counter affidavit has been filed. The cause shown appears to be sufficient. Accordingly the delay in filing the application is condoned and heirs and legal representatives are brought on record deleting the name of the applicant.

15

DA NO. 486/87

2. The applicant deceased, now represented by heirs and legal representatives, had joined the Ammunition Factory Kirkee, Pune as Supervisor with effect from 9.7.1941. He served up to 14th October 1945, on which date his services were terminated, as he was found to be surplus. As a matter of fact, earlier he served as a Trainee between 9.7.1941 and 31.1.1942, then from 1.8.1942 to 15.11.1945. As stated in the written reply on 4.8.1949 he was re-employed and retired on 8th February 1971 on attaining the age of Superannuation. He appealed that after coming into force Rule 28 of the Civil Service (Pension Rules) 1972 which came into existence after his retirement and was amended on 19th May 1980. The applicant claiming the benefits of the amended rules of the year 1980, approached the respondents for condonation of his break in service for the purposes of his pension. Pensioners are required to refund the amount of Rs.99.35 on account of Government Contribution to IOFWP fund. The request of the applicant was turned down by the Ministry of Defence, as he had retired from service before coming into force of the Central Civil Service Pension Rules 1982. According to the applicant, considering the facts and circumstances of the case, though he had retired earlier, the benefits of the rules are to be given to him with retrospective effect.

3. The application has been opposed by the respondents. According to them the applicant has been retired from service and his pensionary dues etc, are now settled. It was no longer open to him to claim benefits of an act, and that too on an amendment which had its prospective effect, the Act 1972

did not give its benefits to those who had retired earlier, and so the amendment which was made in the year 1980. Even if, the act does not discriminate between the employees who are retired earlier or subsequently, as it came into existence much ~~later~~ and what was settled cannot be ~~disturbed~~ for giving benefits for claiming of the legislation which be passed in future.

4. Accordingly, we do not find find any merit in the application, which is dismissed, with no order as to costs.


(M.Y. PRIOLKAR)
MEMBER(A)


(U.C. SRIVASTAVA)
Vice-Chairman