

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

8

O.A. NO: 444/87

199

T.A. NO: ---

DATE OF DECISION 11-11-1991

Neminath Balwant Upadhye

Petitioner

Mr. Chitale

Advocate for the Petitioners

Versus

The DG.AIR, New Delhi & Another

Respondent

Mr. A. I. Bhatkar

Advocate for the Respondent(s)

CORAM:


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

The Hon'ble Mr. M.Y. Priolkar, Member(s)

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 ? ✓

MD

mbm*


(U.C. SRIVASTAVA)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

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O.A.444/87

Shri Neminath Balwant Upadhye,
1/75, Ramkrishna Housing Society,
310, Ghorpade Peth,
Pune - 411 002.

.. Applicant

vs.

1. The Director General
All India Radio Broadcasting House,
New Delhi.

2. The Station Director,
All India Radio,
Pune - 411 005.

.. Respondents

Coram: Hon'ble Shri Justice U.C. Srivastava,
Vice-Chairman.

Hon'ble Shri M.Y. Priolkar,
Member(A)

Appearances:

1. Mr. Chitale
Advocate for the
Applicant.

2. Mr. A. I. Bhatkar, Advocate
for the Respondents.

ORAL JUDGMENT: Date: 11-11-1991
(Per U.C. Srivastava, Vice-Chairman)

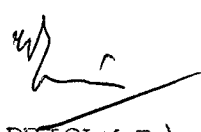
The applicant was appointed as a Staff Artist with the All India Radio in the year 1955 on contractual basis. His contract was renewed from time-to-time and on 7-2-1980 it was extended upto the age of 60 years i.e. upto 4-2-1982. His contractual appointment came to an end on that date. Thereafter the applicant was granted terminal ~~xxxxxx~~ leave for 120 days with effect from 5-2-1982 till 4th June, 1982 i.e. subsequently to the expiry of his contract from 4-2-1982. The contention of the ~~xxxxxx~~ counsel for the applicant is that during this period he was getting regular salary and as such he has to be treated as Government servant and is entitled to the pensionary benefits.


2. The scheme for pensionary benefits in respect of Staff Artist has been made effective

from 1-9-1983. The applicant was granted terminal leave in view of the instructions which was issued by the Govt. in respect of AIR Artist. The pensionary scheme in respect of Staff Artist made effect from 1-9-1983 vide memo dtd. 1/2-9-1983. As per para 20 of the orders the scheme of the pensionary benefits was made applicable to Staff Artist who retired after 6-3-1982 on attaining the age of 60 years but before coming into force of these instructions that is 1.9.1983 and they were given option to avail of pensionary benefits. As the applicant had retired before that date, may be ~~be~~ few days before that, the pensionary benefits were not made available to him. The applicant made a representation in this behalf which was rejected informing that as he retired on a particular date he cannot get the pensionary benefits. On behalf of the applicant it was contended that there is no denial of the fact that Staff Artists were holding a civil post and the applicant was holding a civil post he is deemed to be a government servant notwithstanding the fact that his appointment was on contractual basis and the contract was renewed from time to time. As even thereafter attaining 60 years he was granted terminal benefits which he was enjoying during which period the scheme of pensionary benefits was made applicable to those who are in Govt. service he was deemed to be in Govt. service. As the applicant's service has already come to an end on 4-2-1982 and merely because ^{under} certain schemes he was availing certain benefits the benefits will not make him a govt. servant which status has already come to an end on attaining the age of 60 years. One ~~xxxx~~ gets the status while in service but one cannot get the status because

of extension of certain benefits after that period.

3. Learned counsel for the applicant pointed out that Staff Artists who were working subsequently were made government servants and the applicant is being deprived of both the benefits because he retired only a few days prior to the implementation of the scheme. May be so. As the applicant has ceased to be a government servant he cannot blame those benefits as a matter of right. But in view of the fact that he retired only a few days before the implementation of the order and certain more benefits were extended to the staff artists the applicant may approach the Government and there appears to be no reason why the Govt. will not consider his representation. Learned counsel for the applicant stated that the applicant will be filing a representation in this behalf within 15 days. If that be so let the representation be disposed of within 2 months from the date of receipt of the same taking into consideration the pleas raised by the applicant. The application is disposed of accordingly with no order as to costs.


(M.Y. PRIOLKAR)
Member(A)


(U.C. SRIVASTAVA)
Vice-Chairman

MD