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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH
CAMP AT NAGPUR

O.A. NO: 825/88

199

T.A. NO:

DATE OF DECISION ~~9.25/88~~ 13.3.1992

Narayan B. Thakur

Petitioner

Mr. A.W. Fendharkar

Advocate for the Petitioners

Versus

Union of India & Ors.

Respondent

Mr. Ramesh Darda

Advocate for the Respondent(s)

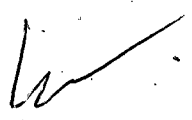
CORAM:

The Hon'ble Mr. Justice U.C. Srivastava, V/C

The Hon'ble Mr. M.Y. Priolkar, M (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 ?

mbm*


(U.C. Srivastava)
V/C

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY
CAMP AT NAGPUR

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Original Application No.825/88

Narayan Balwant Thakur ... Applicant

V/s

Union of India & Ors. ... Respondents

CORAM : Hon'ble Vice-Chairman, Shri Justice U.C.Srivastava
Hon'ble Member (A), Shri M.Y.Priolkar

Appearances:

Mr. A.W.Penkharkar, Advocate
for the applicant and
Mr. Ramesh Darda, Counsel
for the respondents.

ORAL JUDGMENT:


Dated : 13.3.1992


(Per. U.C.Srivastava, Vice-Chairman)

The applicant who was an Assistant Audit Officer in the Office of the Accountant General-II (Audit), Maharashtra, Nagpur retired from service on 1.7.1988. Government of India In the year 1979/decided that the Central Government employees who underwent sterilisation after having two or three children, may be granted a special increment in the form of Personal Pay which was not to be absorbed in future increases in pay, either in the same post or on promotion to higher posts. The rate of personal pay was to be equal to the amount of the next increment due at the time of grant of concession and was to remain fixed during the entire service. The applicant was granted this benefit. Subsequently, in pursuance of decisions on the recommendations of the Fourth Central Pay Commission, the Government of India modified the rules regarding pension, D.C.R.G. Family Pension, etc. According to these modifications, the term "emoluments" for the purposes of calculating various retirement and death benefits was revised to mean pay as defined in F.R.9(21)9a)(i) (i.e. basic pay only) which the Central Government employee was receiving immediately before his retirement or on the date of his

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be revised. The applicant's case admittedly is that sanction was not granted when the memorandum came in force. Learned counsel for the applicant contended that this para 3.2 creates discrimination in as much as it classifies two types of Government servants; one in whose case the sanction has already been granted and the other in whose case the sanction has not been granted. In the memorandum care has been taken to see that in those cases where sanction has been granted which goes upto the highest authorities it will be deemed as if the question of pension has been finalised except that the actual amount is to be given to the person concerned and then it is not to be opened as finalisation itself has been done under the above memorandum. But in case it has not been finalised obviously the new memorandum will apply. The classifications so made cannot be said to be arbitrary or unreasonable. ~~and it cannot be said that no lapses for the same.~~ Accordingly we are of the view that of course by providing these two types of cases no discrimination has been done. We do not find any force in this application which is accordingly dismissed. However, we make it clear that if the applicant hopes to get some relief from the executive authority in this behalf our judgment will not stand in his way and he can even approach the Government of India or any other Executive Authority for this purpose. No order as to costs.


(M.Y. Priolkar)
Member(A)


(U.C. Srivastava)
Vice-Chairman