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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 42/89

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DATE OF DECISION 25.8.93

Shri Madhukar Ganesh Nagarkar Petitioner

Shri V.B.Raikar Advocate for the Petitioner

Versus

Union of India and others Respondent

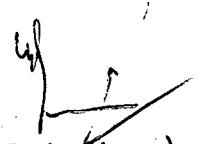
Shri P.M.Pradhan Advocate for the Respondent(s)

CO-RAM:

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

The Hon'ble Shri

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 ?


(M.Y.Priolkar)
Member (A)

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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 42/89

Shri Madhukar Ganesh Nagarkar

... Applicant.

V/s.

Union of India
Secretary
Defence Production
New Delhi.

Director
General of Ordnance
Factories (Board)
6, Esplanade Est.
Calcutta.

General Manager,
Ammunition Factory
Kirkee,
Poona.

... Respondents.

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

Appearance:

Shri V.B. Raikar, counsel
for the applicant.

Shri P.M.Pradhan, counsel
for the respondents.

ORAL JUDGEMENT

Dated: 25.8.93

¶ Per Shri M.Y.Priolkar, Member (A) ¶

The grievance of the applicant in this case is that the period during which he was under ~~training~~ is not being considered as qualifying service for pension. The applicant is an employee of the Ammunition Factory, Kirkee, Pune. He retired from service on 1.12.75 and his pension was sanctioned on the basis of the Rules applicable at that time after excluding the training period from 14.5.40 to 30.9.41. Subsequently by Ministry of Home Affairs, Department of Personal O.M. dated 22.12.83 the benefit counting the training period upto one year as qualifying service for pension was permitted, on the request made by the staff side of the National Council of Joint Consultative Machinery. The said O.M. states that it will come into force from the date of issue viz. 22.12.83.

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The contention of the learned counsel for the applicant is that the applicant should also be entitled to the benefit of this O.M. as to pensioners who had retired after 22.12.83 cannot be discriminated against. He relies on the Supreme Court decision in the case of D.S. Nakara and others Vs. Union of India (AIR 1983 SC 130) in which it has been held that classification in revised pension formula between pensioners on the basis of date of retirement will be arbitrary and violative of article 14.

It is clear that the decision and counting of the period of training as qualifying service for pension was taken as 22.12.83 and has been made applicable to all employees who retired on or after that date. This benefit is regarding only counting of the period of training for the purpose of qualifying service and this benefit was given at the request of the staff side of the J.C.M. Obviously, this is a new concession given as regards counting of qualifying service and naturally there will be a cut off date in regard to such new benefits or concessions. This benefit has been made applicable from the date of arriving at this decision. I do not find that this cut off date has been fixed arbitrarily or that it is discriminatory or unreasonable. The Supreme Court decision cited by the applicant relates only to revision of the pension formula and would not cover the eligibility conditions for service qualifying for pension. The benefit prayed for in the present O.A. is for counting of training period as qualifying service and does not relate to computation of pension amount by any revision of the pension formula. The applicant admits that his

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pension was revised with effect from 1.4.1979
as per Supreme Court judgement in Nakara's case
cited by him. I, do not therefore, find any
merit in this application which is accordingly
dismissed with no order as to costs.

[Signature]
(M.Y.PRIOLKAR)
MEMBER(A)

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