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CAT/J/12

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH  
CIRCUIT BENCH : NAGPUR

O.A. No. 31

1989

T.A. No.

DATE OF DECISION 18.11.91

R. Kuppuswamy Petitioner

Mr. V.S. Yavalkar Advocate for the Petitioner(s)

Versus

U.O.I. & Others Respondent

Mr. P.R. Pai Advocate for the Respondent(s)

AM BY HON'BLE MR. JUSTICE U.C. SRIVASTAVA, V.C.

Hon'ble Mr. JUSTICE U.C. SRIVASTAVA, V.C.

Hon'ble Mr. M.Y. PRIOLKER, MEMBER (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ? u
2. To be referred to the Reporter or not ? u
3. Whether their Lordships wish to see the fair copy of the Judgement ? u
4. Whether it needs to be circulated to other Benches of the Tribunal ? u

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, BOMBAY BENCH  
CIRCUIT BENCH : NAGPUR

Registration O.A.No. 34 of 1989

R.Kuppuswamy ..... Applicant

Vs.

Union of India & Others ..... Respondents

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

Hon'ble Mr. M.Y. Priolkar. Member(A) Dt 18/11/91.

(By Hon. Mr. Justice U.C. Srivastava, V.C. )

The applicant who entered in service in South Eastern Railway at Calcutta on 8.12.1986 and is to retire/ on 31.8.1992 was transferred to Indian Railway Construction Company on deputation for a period of one year vide order dated 10.12.1981 this period was to be extended as and when required on either side. The Indian Railway Construction Company (IRCON) moved General Manager, South Eastern Railway for extension of deputation period for a total period of 4 months i.e. from 2.1.85 to 30.4.85 in the public interest. The said extension was also recommended by General Manager, South Eastern Railway and the matter was referred to Railway Board. This was done. As the applicant wanted his permanent absorption in the Indian Railway Construction Company as such required by the Railway Board, he gave his option for retirement w.e.f. 2.1.85. In the meantime additional pensionary benefits w.e.f. 1.4.85 were announced and ~~that is why~~ the applicant was keen to get extension to his resignation beyond 1.4.1985. The IRCON company recommended to S.E. Railway authorities to accept the resignation of applicant with effect from 2.5.1985, but the Railway Board did not accept this proposal without assigning any reason and the applicant was informed of the said decision. The applicant's claim

is that he should have been allowed to retire on 5.11.85 instead of 1-2/1-85 as he was informed of the decision at a later date. In case the applicant is allowed to retire on 5.11.85 he will pay monitory benefit.

2. The applicant had made reference to the case of P.M.Venkatesan which was allowed by the Principle Bench of C.A.T., New Delhi vide order dated 18.7.87 and the Tribunal stated there that, "the order of retirement being purely administrative, cannot have retrospective effect". We have also taken the very same <sup>new</sup> ~~rule~~ in a number of cases at Bombay Bench of C.A.T. and there appears to be no reason to disagree from our own decision where identical questions of certain law are arisen in the cases.

3. Accordingly this application is allowed and the order dated 25/28.11.1985 (Annexure-A-2) is quashed, and the respondents are directed to accept the applicant's date of retirement with effect from 5.11.1985 i.e. from the date of acceptance of the resignation by the competent authority. The application stands disposed of with these terms. There will be no order as to costs.

  
Member (A)

  
Vice-Chairman.

18th November, 1991, Nagpur.

(sph)