

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.268/2000

Dated this Wednesday, the 14th Day of March, 2001.

Shri Mahadev Vithal Kamble Applicant
Ab
(Applicant by Shri J.M. Tanpure, Advocate)

Versus

1. Union of India & Ors. Respondents

(Respondents by Shri R.R.Shetty for Shri R.K.Shetty, Advocate)

CORAM

Hon'ble Shri B.N.Bahadur, Member (A),

- (1) To be referred to the Reporter or not? *X*
- (2) Whether it needs to be circulated to other Benches of the Tribunal? *X*
- (3) Library. *B.N.Bahadur*

(B.N.Bahadur)
Member (A)

*sj**

THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

Original Application No. 268/2000

B.N.B.

Dated this, Wednesday, the 14th Day of March, 2001.

Coram: Hon'ble Shri B.N. Bahadur, Member (A)

Mahadev Vithal Kamble,
Ex-Mazdoor, T.No.1929 of
Central Vehicle Depot,
Dehu Road, Tal-Haveli,
Dist-Pune.

R/a: Thergaon, C/o. A.D.
Dhond, Tal-Haveli, Dist.Pune. Applicant

(Applicant by Shri J.M. Tanpure, Advocate)

vs.

1) Union of India
Through the Secretary,
Ministry of Defence,
South Block,
New Delhi 110 001.

2) The Commandant,
Central AFV Depot,
Kirkee, Pune 411 003.

3) The Commandant,
Ordnance Depot, Fort,
Allahabad. Respondents

(Respondents by Shri R.R.Shetty, for Shri R.K.Shetty, Advocate)
O R D E R (ORAL)

[Per: B.N.Bahadur, Member (A)]

The Applicant in this case comes up to the Tribunal seeking the relief, in substance, for a declaration that he is entitled to compensation pension as per orders at Annexure (A-v) and also entitled for ex gratia payment as per relevant decisions cited by him. He also claims arrears and interest, + compensation of Rs.50,000/- for the mental agony suffered due to non receipt of compensation pension in time.

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2. The case of the Applicant is that after service in the Army, during the second world war, for about 4/5 years he was appointed as Mazdoor T.No.1929 in the Central Vehicle Depot, (CVD) Dehuroad, in April, 1950. Due to the closure of the establishment, he was discharged from service on 10.3.1967 and was not provided with any job thereafter. The grievance of the Applicant is that he has not been given pensionary benefits, despite representations made by him from time to time. The Applicant avers that he is entitled to compensation pension under Rule 39 of the CCS (Pension) Rules, and in terms of the communication of Army Headquarters dated 11.7.1977 vide No.B/19007/Org 4 (Civ) (P) (copy at Ex.A.5).

3. The Respondent in the case has filed a reply, resisting the claim made by the Applicant and stating that applicant was discharged from service w.e.f. 10.3.1967. His demand for pension has already been rejected as far back as in 1986. The Respondents state that the Applicant had not opted for pension, and there was no question of now allowing him to come over to the pension scheme. The Applicant was a Member of Indian Ordnance Factories Workers Provident Fund Scheme, and the benefits that were due to him as such, were paid to him when he was discharged from service. The Respondents further take the ground of delay and laches, and limitation, and expound details of the case in the remaining part of Written Statement.

4. I have seen the papers in the case, and have heard Learned Counsels on both sides—Shri J.N. Tanpure for the Applicant, and Shri R.R. Shetty for the Respondents.

5. The learned Counsel for Applicant, arguing the case in detail, made the point that the Rule 39 and the clarifications given in the aforesaid communication dated 11.7.1977 (A.5) clearly show that he deserves the benefits claimed. He took me over both these in some detail.

6. The Learned Counsel for Respondents have brought to our notice a judgement made in O.A.No.255/2000 on 1.12.2000 in a similar matter. The learned Counsel for the Applicant is aware of the judgement and in fact was the counsel in that case too. I have carefully gone through the judgement, and find that it is fully applicable to the present case. The facts of the case are also identical. The arguments taken before me by Counsel for Applicant regarding applicability of Rules and the aforesaid communication dated 11.7.1977 have also been dealt with in the order on this O.A.(No.255/2000). It is well and truly established that the letter of 11.7.1977 is not applicable in that particular case, and indeed in this case, before me. In view of the detailed reasons having been given in the judgement in O.A.No.255/2000, I do not find it necessary to repeat them here, since I am in full agreement with the ratio arrived at there. On this count, i.e. regarding compensation pension therefore, the applicant does not deserve any relief.

7. The Applicant has also pleaded in para 8 (b) for relief regarding ex gratia as per decisions (5) of appendix 13 of Pension Rules 1972 along with arrears etc. The learned Counsel for Respondents fairly conceded that this claim could be

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justified, and could be examined for payment. In view of the position expressed by the learned Counsel for the Respondents, it would be fair to allow the Applicant to make a comprehensive Application for exgratia payment, which application shall be decided upon on merits as early as possible. Accordingly, this O.A. is disposed of with the following orders.

(1) *The prayer of the Applicant regarding Compensation Pension is hereby rejected.*

(2) *The Applicant is at liberty to make an Application for ex-gratia payment within a period of 3 months from today. Such application shall be disposed of by the Respondents on merits as early as possible, and, in any case, not later than 3 months after receipt of the Application.*

(3) *Claim for Compensation sought for alleged mental agony etc. cannot be awarded and therefore is rejected.*

(4) *There will be no orders as to costs.*

B.N.Bahadur
(B.N.Bahadur)
Member (A)

sj*

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Contempt Petition No.32/2002
in
Original Application No.268/2000.

Dated this Thursday the 31st Day of May, 2002.

Hon'ble Shri Justice Birendra Dikshit, Vice Chairman
Hon'ble Smt. Shanta Shastry, Member (Administrative).

Mahadev V. Kamble. Applicant.

(By Advocate Shri J.M. Tanpure)

Versus

1. Shri Yogendra Narayan,
The Secretary,
Ministry of Defence,
South Block, New Delhi - 110 001.

2. Shri D.C. Pande,
The Commandant,
Ordnance Depot Fort,
Allahabad. Contemnners.

(By Advocate Shri R.R. Shetty).

Order on Contempt Petition (Oral)
{ Per : Justice Birendra Dikshit, Vice Chairman }

Learned counsel for applicant has argued that Contemnor-Respondent are liable to be punished for non compliance of the directions dated 14.3.2001. A reply has been filed wherein it has been stated that the claim of the applicant has been considered and the department has rejected it.

2. This being the position, the learned counsel for applicant has argued that as the applicant conceded about relief regarding ex-gratia payment in O.A., which stands incorporated in order, therefore, it was not open for *B. G. Iyer* 2..

Respondents to reject the claim of applicant on merits. We do not agree with the arguments advanced. The directions of the Learned Single Member was that "the applicant is at liberty to make an Application for ex-gratia payment within a period of 3 months from today. Such application shall be disposed of by the Respondents on merits as early as possible, and, in any case, not later than 3 ^{months} ~~months~~ after receipt of the Application".

3. In view of aforesaid direction, the application was to be considered on merits. It was open for Respondents to reject the claim while examining on merit. There is no question in such circumstance of wilful disobedience of the order passed in O.A.

4. The other aspect argued by Counsel for applicant is that the orders was not passed within 3 months. The argument is that there is delay of more than 3 months in passing of orders and therefore also respondents are liable. As the order has been passed on merit on the application, we do not consider it a fit case to ^{continue} ~~draw~~ proceedings for wilful disobedience of order of this Tribunal merely because the order was not passed within 3 months

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months. This Tribunal is not supposed to go into such technicality when in substance, the order stands complied.

5. For aforesaid reasons, the Contempt Petition is dismissed, notice is discharged and contempt proceedings are dropped. No costs.

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(Smt. Shanta Shastry)
Member (A)

B. Dikshit

(Birendra Dikshit)
Vice Chairman.

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dt: 31.5.2002

order/Judgement despatched
to Applicant/Respondent(s)
on 11.6.2002

(Signature)