

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO. 68/2000

DATED: Wednesday, this the 27th Day of September, 2000

Shri Manohar Vithal Deshmukh Applicant.

(Applicant Shri R.D.Patil, Advocate)

Versus

Chief Post-Master General & Ors Respondents.

(Respondents by Shri V.S.Masurkar, Advocate)

CORAM

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

(1) To be referred to the Reporter or not? Yes

(2) Whether it needs to be circulated to other Benches of the Tribunal? Yes

(3) Library.

Yes. *Bnb*

(B.N. Bahadur)
Member (A)

sjk

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO.68/2000

DATED: Wednesday, this the 27TH DAY OF September, 2000.

CORAM: HON'BLE SHRI B.N.BAHADUR, MEMBER (A)

Shri Manohar Vithal Deshmukh,
r/o Chikhali, Taluka Sangamner
Dist.Ahmednagar. Applicant.

(By Shri R.D.Patil, Advocate)

versus

1. Chief Post-Master General,
Maharashtra Circle,
Mumbai 400 001.
2. Sub-Divisional Inspector
of Post (Postal), Sangamner
Sub-Division, Sangamner,
Dist. Ahmednagar 422 605.
3. Supdt. of Post Office
Shrirampur Division,
Shrirampur
Dist. Ahmednagar 418 709.
4. The Central Govt.
Through Ministry of
Communications,
Govt. of India,
N. Delhi. Respondents.

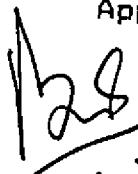
(By Shri V.S. Masurkar, Advocate)

ORDER (ORAL)

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

This Application is filed by one Shri Manohar Vithal Deshmukh seeking the relief from this Tribunal as follows:

"(a) That this Honourable Tribunal may be pleased to direct the Respondents to pay the retirement and pension benefits to the Applicant as given to the employee (EDA's) who have retired after 17.12.1998, from the date of retirement of Applicant i.e. 29.1.1998.



(b) Pending the hearing and final disposal of this Application this Honourable Court may be pleased to direct the Respondents to pay the retirement and pension benefits to the Applicant as given to the Employees (EDAs) who have retired after 17.12.1998, from the date of retirement of Applicant i.e. 29.01.1998.

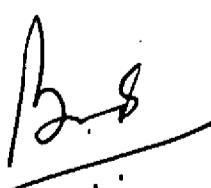
(c) Ad-interim and interim reliefs in terms of prayer (b) above;

(d) Any other appropriate order as the nature and circumstances of this case may require.

(e) Cost of this Application may be awarded."

2. In fact it is seen that what the Applicant is really seeking is the provisions of the benefits ordered by the O.M. dated 17.12.1998, a copy of which has been annexed R.2 (page 23) by the Respondents.

3. The facts of the case are that the Applicant joined the service of Respondents in 1963 as Extra Departmental Agent (EDA). He claimed that his duties were similar to that of a postman, And that they were onerous. The Applicant contends that in view of the demands raised from time to time by EDAs. etc. the Respondents have been providing benefits to them from time to time. It is averred that on 17.12.1998 (date is wrongly mentioned in Application in para 4.1). Certain revision of



allowances of EDAs was made. It is seen that the Applicant retired on superannuation w.e.f 29.1.1998 as per Exh. "A". The short point is that he has been provided benefits on retirement as per orders contained in Govt. instructions at R.i dated 7.1.1993. In other words what the Applicant states is that he has been paid a sum of Rs.6,000/- only as Ex-Gratia Gratuity. His contention is that he should be paid benefits as contained in the O.M. dated 17.12.1998.

4. I have heard learned Counsel on both sides viz. Shri R.D. Patil for the Applicant and Shri V.S. Masurkar for Respondents. The arguments were completed on the last date of hearing. Nakara's case was cited by Learned Counsel for Applicant. However, in order to enable Counsel on both sides to bring up the latest case laws, as pleaded by both, this case was adjourned and is being taken up for final hearing today. Learned Counsel for the Applicant Shri R.D.Patil is not present today. However, in the circumstances as noted above, I feel no need to adjourn the case. Accordingly the case is being considered on the arguments already made by him and the pleadings and the case law relevant.

5. The Learned Counsel for the Applicant recapitulated all the facts in the case by taking me over the two instructions cited and mentioned the point that the latest order dated 17.12.1998 in fact can be deemed to be carrying retrospective effect. Admittedly, the various benefits enhanced through this O.M. have been given effect to as specifically noted against each item. Learned Counsel had stated that in terms of the case of *I.D.S. Nakara 1 SCC 305 and 1983 L&S 1451* the Applicant deserves to get enhanced benefit in regard ex-gratia gratuity and severance amount as described in the aforesaid O.M. dated 17.12.1998.

6. Learned Counsel for the Respondents Shri Masurkar relied on his written Statement, and make the point that the date of effect in the case of the two benefits described have been clearly noted to be the date of issue of the orders i.e 17.12.1998. Since the Applicant admittedly retired on 29th January 1998, these orders cannot be made applicable retrospectively. Learned Counsel cited the case of *State of Punjab and Others vs. Boota Singh and Anr.* [(2000) 3 SCC 733] and to the cases considered in that judgement. The point made was that in this judgement the Hon'ble Supreme Court has distinguished the case of *D.S. Nakara*. The case of Boota Singh. I will take up the case of Boota Singh referred to above. The Head Note of case Boota Singh reads as under:

"Service Law-- Retirement-- Retirement
Benefits-Liberalised benefits-- Prospective
application of --Respondents-- held, not entitled
to liberalised benefits which were introduced
after their retirement -- Further held, granting
of additional benefits has financial implications
and therefore prescription of date for such
benefits cannot be termed as arbitrary --
Constitution of India -- Arts. 14 and 16 --
Cut-off date -- Prescription of"

It is clear that the decision in Nakara's case has been distinguished. In view of the gist of the ratio decided above and the detailed reasons brought in the case of Boota Singh, it

would not be necessary for me to restate the reasons which are fairly applicable to the present case. No benefits can accrue to him since he has retired from a date prior to the date of effect as decided by Govt. It cannot be open to this Tribunal to go into the correctness or otherwise of the decision regarding the cut-off and to judicially determine such a date.

7. In view of the discussions above, no interference is called for in the present O.A. Hence the O.A. is hereby dismissed with not orders as to costs.

B.N.Bahadur

(B.N.Bahadur)

Member (A)

SJ*