

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO. : 482/2000

Date of Decision : 16.11.2000

U.B.Solanki Applicant.

Shri G.S.Walia Advocate for the  
Applicant.

VERSUS

Union of India & Ors. Respondents.

Shri V.S.Masurkar Advocate for the  
Respondents.

CORAM :

The Hon'ble Shri S.L.Jain, Member (J)

- |       |  |      |
|-------|--|------|
| (i)   | To be referred to the Reporter or not ?                              | } No |
| (ii)  | Whether it needs to be circulated to other Benches of the Tribunal ? |      |
| (iii) | Library  |      |

S.L.Jain -  
(S.L.Jain)  
MEMBER (J)

mrj\*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.482/2000

Thursday this the 16th day of November, 2000

CORAM : Hon'ble Shri S.L.Jain, Member (J)

U.B.Solanki,  
R/o. Naroli Nava Falia  
Via Bhilad (W.R.)  
U.T. of Dadra and Nagar Haveli.

...Applicant

By Advocate Shri G.S.Walia

V/S.

1. The Administrator  
U.T. of Dadra and Nagar Haveli,  
Silvasa - 296 230.

2. The Asst. Director of Education  
(ADM), Head of Office,  
Department of Education,  
Dadra Nagar Haveli,  
Silvasa.

... Respondents

By Advocate Shri V.S.Masurkar

O R D E R (ORAL)

{Per: Shri S.L.Jain, Member (J)}

This is an application under Section 19 of the  
Administrative Tribunal Act, 1985 seeking the following reliefs:-

(a) This Hon'ble Tribunal will be pleased to  
order and direct the Respondents to pay the  
Applicant all his retirement dues such as  
Provident Fund, Pension, Commuted Pension Leave  
Encashment, Group Insurance, DCRG etc. which are  
illegally withheld by the respondents.

S.L.J., ..2/-

(b) This Hon'ble Tribunal will be pleased to order and direct the respondents to pay the applicant interest at 18% per annum on the retirement dues illegally withheld by the respondents.

(c) Any other or further order as this Hon'ble Tribunal may deem fit, proper and necessary in the circumstances of the case be passed.

(d) Cost of this Original Application be provided."

2. At the commencement of the hearing, the learned counsel for the applicant stated that amount in respect of Leave Encashment and Provident Fund has been paid by the respondents.

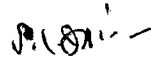
3. The learned counsel for the respondents sought two weeks time for filing reply to the rejoinder filed by the applicant. The learned counsel for the applicant opposed the prayer. On perusal of the rejoinder, I find that a new fact has been pleaded regarding service of the notice by the applicant's Advocate dated 18.10.2000. The learned counsel for the applicant is asked whether he is willing to proceed with the case if this fact is not taken into consideration for the reason a new fact is brought on record, the respondents are entitled to reply for the same. The learned counsel for the applicant stated that this fact may be ignored.

4. After hearing the parties, I find that the pension, commuted pension and DCRG are not paid due to pendency of the chargesheet. Pendency of the chargesheet which is issued after

*Sign* ✓

retirement has no relevance in payment of the amount claimed by way of pension, commuted pension and DCRG. As the applicant has retired on 31.5.2000 and amount in this respect has not been paid so far, he is entitled to interest at the rate of 12% p.a. from 1.9.2000.

5. In the result, OA. is allowed. The respondents are ordered to pay amount regarding pension, commuted pension and DCRG to the applicant within a period of two months from the date of receipt of a copy of the order along with the interest at the rate of 12% p.a. from 1.9.2000 till the payment is actually made. No order as to costs.

  
(S.L.JAIN)  
MEMBER (J)

mrj.

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

Contempt Petition No.30 of 2001

(In OA 482 of 2000) dated 19/10/2001

Hon'ble Shri Justice Birendra Dikshit - Vice Chairman (J)  
Hon'ble Shri B.N.Bahadur - Member (A)

U.B.Solanki (Retd.),  
Principal of Government Higher  
Secondary School, UT of Dadra  
& Nagar Haveli.

R/o Naroli Nava Falia,  
Via Bhilad (W.R.),

U.T. of Dadra & Nagar Haveli

... Applicant

(By Advocate Shri G.S.Walia)

VERSUS

1. Shri Kakkar or his successor-in-Office,  
The Administrator,  
U.T. of Dadra & Nagar Haveli,  
Silvassa -296 230.

2. Shri Vinay Kumar or his Succesor,  
The Assistant Director of  
Education (Admn.),  
Head of Office,  
Department of Education,  
U.T.of Dadra & Nagar Haveli,  
Silvassa.

... Respondents

(By Advocate Shri V.S.Masurkar)

O R D E R (Oral)

Hon'ble Mr.Justice Birendra Dikshit - Vice Chairman -

This Contempt Petition was filed on the ground of wilful disobedience of the order due to non-payment of all the retiral dues which were determined in the OA. The operative portion of the OA is as follows:-

"5. In the result, OA is allowed. The respondents are ordered to pay amount regarding pension, commuted pension and DCRG to the applicant within a period of two months from the date of receipt of a copy of the order along with the interest at the rate of 12% p.a. from 1.8.2000 till the payment is actually made. No order as to costs."

B. Gant

...2/-

2. The learned counsel for the applicant contended that complete amount of Leave Encashment has not been paid. As there is a dispute between the applicant and respondent-contemner in respect of the amount payable as Leave Encashment, it is not necessary for us to proceed with the Contempt Petition as the determination of amount of Leave Encashment involves adjudication on question of fact, which can be a subject matter of a separate OA.

3. For the aforesaid reasons we dismiss the Contempt Petition but leave it open for the applicant to file a separate OA with regard to the dispute in respect of quantum of leave encashment. Noticees are discharged. *The CR is disposed of accordingly.*

*B.N. Bahadur*

(B.N. Bahadur)  
Member(A)

*B. Dikshit*

(Birendra Dikshit)  
Vice Chairman

mb

*dl 19/10/01*  
order/ *19/10/01* *19/10/01*  
to Appellate Court (s)  
on *8/11/01*

*W*