

(10)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 43/91

Transfar Application No:

DATE OF DECISION: 10.3.94

Shri Dorab P. Patel

Petitioner

Advocate for the Petitioners

Versus

Union of India & others.

Respondent

Advocate for the Respondent(s)

CORAM : Hon'ble Shri M. R. Kolhatkar, Member (A)

The Hon'ble Shri M. R. Kolhatkar, Member (A)

The Hon'ble Shri

1. To be referred to the Reporter or not ? ☒
2. Whether it needs to be circulated to other Benches of the Tribunal ? ☒

M. R. Kolhatkar

(M. R. Kolhatkar)
Member (A)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

(12)

O.A. No. 43/91

Shri Dorab P. Patel

.... Applicant

Vs.

Central Government of India
New Delhi, though respondent No.2

General Manager, Western Railway
Churchgate, Bombay.

.... Respondents.

CORAM : Hon'ble Shri M. R. Kolhatkar, Member (A)
Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Appearance :

Applicant in person.

ORAL JUDGEMENT

Dated : 10.3.94

Per : Shri M. R. Kolhatkar, Member (A)

On 28.2.1994 we had heard the applicant in person and learned counsel for the respondents. We had given time to the respondents to file certain clarifications, which he had to do after taking instructions from the Railway Administration. Today none appeared for the respondents. We have again given hearing to the applicant and we are disposing of this matter finally exparte respondents.

2. The basic facts of the application are that the applicant retired voluntarily on 27.7.1989 from the Railway service. The relief sought by the applicant is that his colleagues appointed on the same date were getting higher salary of Rs. 2000/- whereas on the date of his retirement, he has been getting less viz. Rs. 1800/- In this connection he has quoted the case of Miss L. G. Puntambekar. The applicant would also like to receive full pay for the four periods of sick leave which are mentioned in his

(13)

amended application. Thirdly the applicant's contention is that the encashment of leave in respect of only 30 day L.A.P. has been shown instead of 204 days LHAP.

3. During the course of the arguments as well as in this application, the applicant has referred to certain other matters which he calls "Inconsistent control of Human Beings" The applicant has produced printed articles written by him. This aspect of the matter raised by the applicant may be valid from his point of view but it is not relevant for our purposes nor is this court competent to pronounce thereon. so far as the first contention of the applicant is concerned, the respondents state that Smt. Puntambekar and the applicant were earlier selected by the Railway Recruitment Commission and their respective merit orders were 70 and 141, and as such, Smt. Puntambekar was senior to the applicant, and entitled to earlier promotion and higher pay scale. The applicant remained on leave without pay on medical grounds and as such the question of payment of arrears of pay does not arise as there was no leave to his credit and the leave period was regularized as leave without pay. However, later on his leave without pay came to be considered by the authorities on medical grounds and he was allowed to encash 41 days LAP. The respondents state that even though, technically speaking, the applicant has got 204 days LHAP, he is not entitled to convert the same after the date of his voluntary retirement.

4. It is well known that on 6.4.1993 the TM
Central Government, in terms of Arbitration award,
issued orders permitting encashment of HPL with
restrospective effect, that date being prior to ^{date of}
voluntary retirement of Applicant namely 1989.
While, therefore, we are, unable to grant the relief
in terms of prayers (a) and (b), we feel that prayer
(c) deserves to be considered by the Railway
Administration. We therefore dispose of this OA by
passing the following order :

O R D E R

OA is dismissed except that the respondents
are directed to reconsider the eligibility of the
applicant for encashment of balance 204 days of HPL
in terms of latest rules and if he is entitled to the
same, make the payment within two months from the date
of receipt of a copy of this order. No order as to
costs.

Lakshmi Swaminathan
(Lakshmi Swaminathan)
Member (J)

M.R. Kolhatkar

(M.R. Kolhatkar)
Member (A)