

(5)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 1048/92
Transfer Application No.

Date of Decision : 23.3.95

S.B.Sudrik

Petitioner

Mr. S.Natarajan

Advocate for the
Petitioners

Versus

U.O.I. & ors.

Respondents

Mr.S.Kumar for Mr.M.I.Sethna

Advocate for the
respondents

C O R A M :

The Hon'ble Shri

Justice M.S.Deshpande, Vice Chairman

The Hon'ble Shri

P.P.Srivastava, Member(A)

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

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


V.C.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, 'GULESTAN' BUILDING NO.6
PRESCOT ROAD, BOMBAY 1

O.A.NO.1048/92

S.B.Sudrik

..Applicant

V/s

U.O.I. & Ors.

..Respondents

Coram: Hon.Shri Justice M.S.Deshpande, V.C.
Hon.Shri P.P.Srivastava, Member(A)

Appearance:

Mr. S. Natarajan
Counsel for the applicant
Mr.S. Kumar for Mr. M.I.Sethna
Counsel for the respondents

ORAL JUDGMENT:

DATED: 23.3.1995


(Per: M.S.Deshpande, Vice Chairman)

The applicant was born on 15.7.1933 and came to be appointed as peon in January 1956. He was promoted as Record-keeper in 1979 which was a Group C post. As a result of the implementation of the IVth Pay Commission Report the pay scale of Record-keeper was Rs.825-1200 which scale of pay was allotted to Group D staff. The age of retirement of Group C staff was 58 years and the applicant should have retired on 31.7.91. The applicant, however, continued to be in employment up to 22.1.92 and was asked to retire on the afternoon of 22.1.92. The applicant has been paid wages for the period 1.8.91 to 22.1.92. This amount was however deducted from the amount of gratuity payable to him because according to the respondents the applicant could not have legitimately worked during the period from 1.8.91 to 22.1.92.



2. Three prayers have been made by the present application. The first prayer of the applicant is that the amount deducted from the gratuity should be paid to him. The Id. counsel for the respondents contended that the applicant had worked under a mistake and hence he would not be entitled to be paid any wages for the period. We find it difficult to accept the submission because the applicant, though on account of mutual mistake, had worked up to 22.1.92, he was entitled to be paid wages for the period. The mutual mistake notwithstanding, the respondents were not, therefore, entitled to deduct the amount of wages for the period from 1.8.91 to 23.1.92 from the gratuity payable to the applicant. We, therefore, direct the amount of wages should be paid, less the amount of pension and dearness relief on pension, to the applicant together with interest @ 12% per annum within two months from the date of communication of this order.

3. The second prayer relates to the interest which according to the applicant should have been paid to him on the amount of his P.F. amount of Rs.47,406. The applicant's date of superannuation, as already observed would have been 31.7.91 and under the existing rules the amount of P.F. should be paid within six months and the applicant would be entitled to interest on the amount of P.F. for a period not exceeding 6 months from the date of superannuation. The applicant applied for being paid the amount of P.F. on 23.1.92 but it came to be paid to him on 3.6.92. Mr. Natarajan contended that the applicant would be entitled to interest from 31.1.92 to 3.6.92 also on the P.F. amount, irrespective of the rule position, because he had worked even after the period of superannuation. We do not think that the applicant can be allowed to take advantage of his own wrong in continuing to work even beyond the period of his superannuation. We cannot stretch the rules in order to accommodate hard cases and since the rules prescribe



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interest for a period of six months from the actual date of superannuation, we do not think that the applicant can claim larger amount of interest and therefore that part of the prayer for interest is rejected. With regard to interest ^{on} gratuity Mr. Natarajan does not press for the same as the amount involved is meagre.

4. In the result the only direction is that the amount of wages paid to the applicant which have been deducted from the amount of gratuity should be paid to the applicant together with interest @ 12% p.a. as directed above within two months from the date of communication of this order. Rest of the claim is dismissed.



(P.P. Srivastava)
Member(A)



(M.S. Deshpande)
Vice Chairman