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Original Application No. 1069/92

Transfer Application No.

Date of Decision : 28.03.95

Petitioner

Advocate for the
Petitioners

Versus

Respondents

Advocate for the
respondents

C O R A M :

The Hon'ble Shri Justice M.S.Deshpande, V.C.

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? *no*

V.C.

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

O.A. No. 1069/92

Gulab B. Ganorkar

..Applicant

V/s.

Union of India & Ors.

..Respondents

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

Appearance:

Mr. J.M. Tanpure
Counsel for the applicant

ORAL JUDGMENT:

DATED: 28.02.1995

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

By this application the applicant seeks for a declaration that he is entitled to bonus, leave and increments for the period of suspension from 2.6.82 to 11.7.84 and that he is entitled to be promoted to the rank of Slinger 'A' from November 1982 when his immediate junior Ghodwe was promoted and for a declaration that he is entitled for the arrears as well as interest @ 12% p.a. on the arrears of Rs.13,000/- which were paid to him late.

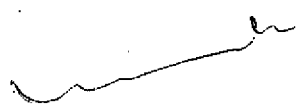
2. The applicant was employed with the Ordnance Factory, Ambajari as Slinger 'B' and came to be suspended from duty on 2.6.82 as he was prosecuted u/s.302 of Indian Penal Code in Criminal Case No.24/82. He was acquitted by the Sessions Court at Nagpur and he was reinstated on 23.7.84. The applicant made a representation through All India Defence Employees Federation, respondent but the second/by his letter dated 9.3.87 informed the applicant that he is not entitled to pay and allowances

W. S. Deshpande

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beyond subsistence allowance. The applicant appealed and by the order in appeal it was held that the applicant was entitled to full pay and allowance for the entire period of suspension i.e., from 2.8.82 to 11.7.84 and that order came to be passed on 28.3.90. The applicant eventually received Rs.13,000/- by way of pay and allowances in 1990 but was not granted the other reliefs. The applicant also claims that he should have been promoted as a Slinger 'A' from November 1982 when his junior Gholve came to be promoted.

3. At the time of hearing of the case, the applicant produced the letter written to him by the Head of the Section of the respondents intimating that the period of suspension has been treated as period spent on duty vide order dated 19.2.90 and the responsibility of crediting his Earned Leave during that period rests with the Ordnance Factory, Ambajhari and so his service record was forwarded to the Ordnance Factory, Ambajhari, for crediting the E.L. from 1982 to 1984 and that he would be intimated on receipt of the service record from them. The grievance of the ~~Government~~ counsel is that nothing is heard since this letter was received during the pendency of the application and that the respondents should be issued with a direction to do the needful in this matter. The applicant would obviously be entitled for such a direction:



4. The grievance of the applicant's counsel is that the applicant should have been given promotion which the respondents have given to Ghodve. Ghodve was appointed as Labourer 'B' on 1.12.1975 whereas the applicant was appointed on 24.11.1975. But then the applicant was appointed as Slinger 'B' on 9.2.81 whereas Ghodve was promoted as such on 11.2.1980. This was obviously not due to ~~the result of~~ the applicant's suspension and that was an event which occurred earlier and the applicant should have independently ^{of his remedy} ~~persuaded~~ in respect of his seniority position then. The promotion to the post of Slinger 'A' is a result of the advantage Ghodve got in the post of Slinger 'B' before the applicant and the applicant, therefore, cannot make any grievance ~~the~~ regarding his promotion which was delayed on that basis though the applicant came to be promoted as Slinger 'A' in 1984.

5. The next grievance of the applicant is that he should have been paid interest on the wages for the suspension period from 1982 to 1984 amounting to Rs.13,000 because of the delay in payment from 1984 to 1990. Since the applicant was exonerated and the period of suspension came to be treated as duty for all purposes, the applicant would be entitled to interest on the amount of Rs.13,000 which the applicant could not get because of the order of suspension which ultimately was found to be improper. The applicant has claimed interest @12% p.a., but

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we think interest @ 10% per annum should only be allowed on that amount. Since all the other benefits have already been paid to the applicant the only order that we make is as follows:

O R D E R

1. The respondents shall take action on the letter dated 31.07.1993 which has been produced to-day for crediting the period of his Earned Leave ~~for the period~~ of suspension from 2.6.82 to 11.7.84 which has been treated as duty, within two months from the date of communication of this order.
2. Pay interest on the Rs.13,000/- at the rate of 10 per cent per annum from the date the amount became due in 1984 up to the actual date of payment in 1990.
3. No order as to costs.

(P.P. Srivastava)
Member(A)

(M.S.Deshpande)
Vice Chairman