

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH AT MUMBAI

REVIEW APPLICATION NO 06 OF 2000
c IN
ORIGINAL APPLICATION NO.1295 OF 1992

DISTRICT
AURANGABAD

BETWEEN

Shri Mahadeorao Sadashivrao Chitnis

Petitioner

Versus

Union of India & 2 Others

Respondents.

HUMBLE REVIEW PETITION OF THE PETITIONER ABOVENAMED IS AS UNDER :

1. The Applicants states that the Applicant is law abiding citizen of India age 80 years and has filed the above referred application for redressel of his grievances more particularly the grievances pertaining to unlawful withholding of gratuity from April, 1978.
2. The applicant states that the case of the applicant in nutshell is that upon retirement in superannuation in 1978 the applicant was entitled for entire pensionary benefits and the said benefits were paid in part. The respondents initially withheld the amount of his gratuity on account of unpaid loan taken for purchase of Motor Cycle. Upon payment of the said amount the respondents should have released the said gratuity however respondents on account of their own lapses did not take any decision on release of the said amount.
3. The applicant states that to cover up the said illegality and to avoid action against the person responsible respondents have manipulated the records and covered the said illegality as a recovery towards losses caused to the Government.

4. The applicant states that by covering the said error in the said manner referred to above, and to further avoid the liability of the protecting officer respondents have committed another illegal act of non-payment till 1984.

5. The applicant states that the respondents illegally and in utter violation of the rules have passed the order in June, 1984.

6. The applicant states that as defined in CCS Pension Rules under Rule-9 president reserves to himself the right of withholding or withdrawing a pension or part thereof if the pensioner is found guilty or grave misconduct or negligence during the period of his service.

7. The applicant states that under rule 9(2)(b) it is defined that "the departmental proceeding if not instituted while the ~~government~~^{applicant} was in service, whether before his retirement, or during his re-employment, - I) shall not be instituted save with the sanction of the president ii) shall not be in respect of any event which took place more than 4 years before such institution"

8. The applicant states that rule 9(6) is defined as "for the purpose of this rule,- a) departmental proceedings shall be deemed to be instituted on the date on which the statement of charges is issued to the Govt. servant or the pensioner, or if the government servant has been placed under suspension from an earlier date, on such date; and"

9. The applicant states that under rule 8(5)(b) the grave misconduct is defined as "the expression grave misconduct includes the communication or disclosure of any secret of official code or password of any sketch, plan, model, article, note, document, information such as mentioned in section 5 Official Secrets Act 1923 (19 of 1923) (which was obtained while office under the Government) so as to prejudicially affect the interest of general public or the security of the State"

10. The applicant states that the applicant was not placed under suspension before retirement.

11. The applicant states that no departmental proceedings or judicial proceedings were pending before his retirement and till today no such proceedings are initiated.

12. The applicant states that no chargesheet is served on the applicant till date in any departmental proceedings.

13. The applicant states that the respondents have passed the said order of deduction in gratuity without conducting any enquiry and the said recovery/deduction is made without any power or authority vested with the said authority or officer to make such recovery/deduction under any provision of rule. Therefore the act of the respondents is illegal.

~~14. The applicant states that the original application was fully heard and decided on merits ex parte whereas applicant and his counsel remain present on earlier occasions and the matter was adjourned at the request of the respondents counsel due to his inability to produce the records as directed by this Hon'ble Tribunal and also on account of his absence.~~

15. The applicant states that on page-2 Line-2 of the judgement this Hon'ble Tribunal was pleased to record the findings as "There was a controversy about shortage of cement for which applicant was held responsible, prima-facie. A detailed inquiry was made, as evident from records and finally a letter dated 16/6/84 was issued (Exhibit-G) to the applicant, informing his of the decision to deduct Rs. 3926/- from the balance amount of DCRG withheld)"

16. The applicant states that the entire judgement is based on the above observation that is a detailed inquiry was made.

17. The applicant states that the respondents have filed an affidavit in reply. On page-5 of the said reply in para(f) it is categorically admitted by the respondents as "With

corrected by setting aside the judgement and the application deserves to be allowed in light of the rules.

23. The applicant states that this Hon'ble Tribunal is pleased to award 6% interest on the delayed payment of gratuity whereas under Rule 68 as substituted by O.M. No.7/3/84 dated 28th July, 1984 by Department of Personal and AIR the interest payable on the amount beyond 3 months and upto one year is 7% p.a. and beyond one year is 10% p.a. thus the applicant is entitled for 10% interest under rule 68 and as per law is entitled for 18% interest.

24. The applicant therefore states and submits that there is error apparent on the face of record and the judgement deserves to be set aside allowing the prayers of the applicant

25. The applicant therefore prays that -

- A) This Hon'ble Tribunal be pleased to review the judgement and order of this Hon'ble Tribunal dated 6th January, 2000.
- B) This Hon'ble Tribunal be pleased to quashed and set aside judgement and order dated 6th January, 2000 and be further pleased to allow the prayers as made in the application.
- C) This Hon'ble Tribunal be pleased to award costs and compensatory costs to the applicant.
- D) This Hon'ble Tribunal be pleased to pass any order or any further order as may be deemed fit and proper in the facts and circumstances of the case.

And for this act of kindness the applicant shall, as in duty bound, ever pray.

Mumbai,

Dated : 31/1/2000


Applicant

VERIFICATION

I, Madhavrao Sadashivrao Chitnis, aged 80 years permanently residing at Aurangabad, Indian Inhabitant do hereby state on solemn affirmation that the contents and contentions in the present Application is true to the best of my knowledge and belief and I believe the same to be true.

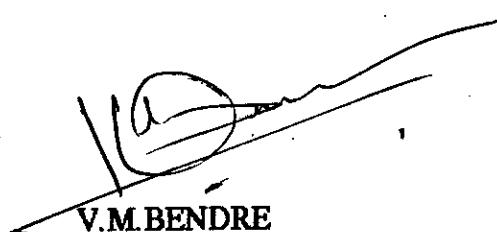
I say that I have disclosed every material fact best known to me and to the best of my knowledge and ability. I therefore state that I have not suppressed any material fact.

Solemnly affirmed at Mumbai,

This 31st day of January, 2000



Deponent.



V.M.BENDRE

Advocate for the Applicant