

14

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 128/92

~~Transferred Application~~

DATE OF DECISION: 22.6.94

Shri Venkatesh Teethbhat Kabnur Petitioner

Shri M.S. Ramamurthy. Advocate for the Petitioners

Versus

Union of India and others Respondent

Shri P.M.Pradhan. Advocate for the Respondent(s)

CORAM :

The Hon'ble Shri Justice M.S. Deshpande, Vice Chairman

The Hon'ble Shri

1. To be referred to the Reporter or not ? *no.*
2. Whether it needs to be circulated to other Benches of the Tribunal ? *no.*


(M.S. Deshpande)
Vice Chairman

(15)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 128/92

Shri Venkatesh Teerthbhat Kabnur

... Applicant

V/s.

Union of India, through
the Secretary, Ministry of
Finance (Department of
Expenditure) Government of
India, New Delhi.

Comptroller and Auditor

General of India,
Bahadur Shah Zafar Marg,
New Delhi.

Accountant General (Audit I)
Maharashtra,
M.K. Road, Bombay.

Principal Director of
Audit (C), Pandurang
Budhakar Marg, Worli
Bombay.

... Respondents.

CORAM: Hon'ble Shri Justice M.S. Deshpande, Vice Chairman.

Appearance:

Shri M.S. Ramamurthy, counsel
for the applicant.

Shri P.M. Pradhan, counsel
for the respondents.

ORAL JUDGEMENT

Dated: 22.6.94

¶ Per Shri M.S. Deshpande, Vice Chairman¶

The only question which arises in this application is whether the applicant has exercised the option for coming over to the revised scale. The applicant admittedly was in service before 1.1.73. The Letter dated 12.11.86 shows that the applicant had written to the Director of Audit, stating that he has made a representation on 1.11.85 with reference to circular No. Admn/Cent./RP Rules/Vol.VIII/2094 of 10.10.85, wherein he had given option to come over to the new scale of 1973 from a date subsequent to that date when the pay of the Junior became more, so that by remaining in the old scale (prior to the pay fixation of 1973) the benefit of refixation


: 2 :

would be admissible as per orders applicable prior to Pay Fixation 1973, and requested for re-fixation of his pay. The reply at Exhibit 'D' to the application dated 27.1.87 shows that the instructions have been brought to the notice of all staff members, and the conditions for exercising option are not applicable to the applicant as his representation was beyond the date stipulated by the O.M. dated 13.3.84. The contention of the respondents was that extension of time which was granted for exercising the option upto 1.12.88 would not be applicable to the applicant. It is necessary to extract the relevant portion of Exhibit 'D' of the reply, which reads as follows:

" The undersigned is directed to refer to CAG's letter bearing No.1722-NI/64-85-II dated the 31st August, 1988, on the above subject and to state that the proposal to allow extension of time-limit beyond 31.5.1984 for exercising the option in terms of this Ministry's O.M. dated 13.3.1984, has been examined in consultation with the Department of Personnel and Training. It has been decided that as a special case the employees may be allowed extension of time-limit to exercise option in terms of this Ministry's O.M. dated 13.3.1984. The option may be exercised latest by 1st December, 1988. No extension beyond this period will be allowed for whatsoever reasons. It may now be ensured that the revised decision is brought to the notice of all affected persons. "

2. Thereafter the applicant wrote letter dated 12.10.90, Exhibit 'E' to the application, in which he has stated that the date of giving option was further extended upto 31.12.88 and he had also requested to fix the pay with respect to his option.


3. The submission of Shri P.M.Pradhan, counsel

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for the respondents was that ^{by} the letter dated 24.10.88, Exhibit 'D' to the reply which ^{is} was extracted above, ~~that~~ it has been decided that extension of time limit to exercise option in terms of O.M. dated 13.3.94 ^{was to be} upto 1.12.88. No extension beyond this period will be allowed for whatsoever reasons. It may be noted that the applicant had already exercised his option in his representation dated 1.11.85. It has been admitted by the respondents in Exhibit 'D' dated 27.1.87 to the application that the applicant had given the representation. Therefore there cannot be any denial that the applicant had exercised for option which was beyond the date stipulated by the OM dated 13.3.84. What the applicant wanted was that the option given earlier should be acted upon. Since the time for giving option had been extended, the applicant would be entitled to the benefit of extension of time.

4. The respondents are directed to re-fix the pay of the applicant on the basis of option with effect from 12.11.73. Since the applicant has retired in May 91 and the present application was filed on 24.1.92, the monetary benefit which the applicant would be entitled on the basis of re-fixation, whether in the matter of salary or payment of pension, DCRG and other retirement benefits shall be restricted to the period of 12 months prior to filing of this application in accordance with law. This be done within four months from the date of receipt of this order.

5. There shall be no order as to costs.


(M.S. Deshpande)
Vice Chairman.