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CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

Original Application No: 486/92

Transfer Application No: ---

DATE OF DECISION 19-7-1993

Shri D.Chandrasekaran

Petitioner

Mr.D.V.Gangal

Advocate for the Petitioners

Versus

M.O.I. & ors.

Respondent

Mr.Subodh Joshi


Advocate for the Respondent(s)

CORAM:

The Hon'ble Shri V.D.Deshmukh, Member(J)

The Hon'ble Shri --

1. ~~Whether Reporters of local papers may be allowed to see the Judgement ?~~
2. To be referred to the Reporter or not ? no
3. ~~Whether their Lordships wish to see the fair copy of the Judgement ?~~
4. Whether it needs to be circulated to other Benches of the Tribunal ? no

  
(V.D.DESHMUKH)  
M(J)

M

(7)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

O.A.486/92

Shri D.Chandrasekaran,  
Babajan Ashram  
Rao Colony,  
Lonavala.

.. Applicant

-versus-

1. Union of India  
through  
The General Manager,  
Central Railway,  
Bombay V.T.
2. The Divisional Regional  
Manager,  
Central Railway,  
Bombay V.T.
3. The Deputy Chief Electrical  
Engineer(Construction) DFRE  
Central Railway, Dadar,  
Bombay.

.. Respondents

Coram: Hon'ble Shri V.D.Deshmukh,  
Member(J)

Appearances:

1. Mr.D.V.Gangal  
Advocate for the  
Applicant.
2. Mr.Subodh Joshi  
Advocate for the  
Respondents.

ORAL JUDGMENT:  
(Per V.D.Deshmukh, Member(J))

Date: 19-7-1993

The application is admitted and taken for hearing. I heard the learned counsels for both the sides.

2. The applicant who was in service of the Central Railway retired by superannuation on 1-2-1984. He was not granted pension or other pensionary benefits on the ground that the criminal case No.5040/83 was pending against him. The applicant filed O.A.754/89 which was decided on 7-2-90 and for the reasons mentioned in the order the respondents were directed to pay provisional <sup>pension</sup> with arrears to the applicant from 1st February, 1984 within four months from the date of

receipt of a copy of the order. Admittedly that order has been complied with and the applicant is receiving the provisional pension.

3. The applicant, under the same order was given liberty to make representation to the respondents as regards the other prayers concerning the other pensionary benefits at appropriate time. The applicant thereafter made representations. However, by the communication dt. 27-11-1991 he was informed that as the said criminal case was still pending the payment on account of DCRG, commutation value of pension, leave salary, Group insurance etc. could not be released and were yet to be finalised.

4. The applicant has filed the present application claiming that he may be granted the post retirement benefits. The learned counsel for the applicant relied upon the judgment of the Principal Bench in R.D. Kathuria vs. U.O.I. & Ors. (1990) 13 ATC 890. After reading this judgment it is obvious that the facts in the present case are similar on all ~~four~~ <sup>four</sup> to the facts in the case before the Principal Bench.

After referring to the relevant rules i.e. Rules 69, 23 and 49 of the Central Civil Services (Pension) Rules, 1972 and Rule 4 of Central Civil Services (Commutation of Pension) Rules, 1984, the Principal Bench found that the rules pre-suppose that the criminal proceedings would be completed within reasonable period but as the proceedings are likely to take a very long time, it was unfair to withhold the retirement benefits and finally directed the respondents to pay part of the retirement benefits subject to conditions mentioned in the order.

In the present case the criminal case is pending since 1983.

5. The applicant retired in February, 1984 and he had not received any pensionary benefits till he was granted provisional pension under the order passed by this Bench of the Tribunal on 7-2-90. As has been stated earlier the facts before the Principal Bench are similar to the facts in the present case. In that case also a criminal case was pending even before the Applicant had reached the age of superannuation. It was contended that when the order was passed in O.A. 754/89 the applicant had given an undertaking that he shall not press that application if provisional pension was given to him. The order passed however shows that the liberty was granted to the applicant to make representation for other benefits before the respondents. The representation was made, and was rejected on the very same ground namely that the criminal case was pending. In the circumstances I find that the ends of justice ~~require~~ the order on the same lines as was passed by the Principal Bench in the case of R.D. Kathuria vs. U.O.I. (supra). Hence the following order:

The respondents shall pay to the applicant half of the Gratuity normally payable to the applicant, half of leave salary, group insurance and Mutual Benefit Society Fund on the applicant executing an indemnity bond, with two sureties to the effect that he will refund the amount to the Govt. in case the final decision of the Railway administration after the conclusion of the criminal case goes against him. The respondents are directed

to allow the applicant to commute at least half of 1/3rd of the pension which the applicant would be entitled to commute ordinarily under the Railway Pension Rules, subject to the condition that the applicant will execute an indemnity bond together with two sureties to the effect that the applicant shall refund the amount to the Govt. in case the final decision of the Railway administration after the conclusion of the criminal case goes against the applicant..

The amount paid to the applicant on account of Gratuity, leave salary, group insurance, Mutual Benefit Society Fund and commuted value of pension to be released to the applicant pursuant to this order shall be liable to adjustment depending on the final decision of the Railway administration on conclusion of criminal case against the applicant.

This order shall be complied with within a period of three months from the date of receipt of a copy of this order and after ~~for the purpose of~~ <sup>the</sup> furnishing indemnity bond and sureties ~~by~~ the applicant.

There shall be no order as to costs. <sup>In view of</sup> ~~with~~ the above judgment and order in the

O.A. MP 273/93 stands disposed of.



(V.D. DESHMUKH)  
M(J)

(11)  
CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH  
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C.P. 178/93 in  
Original Application No. 486/92

Tribunal's order

Dated: 14.2.94

Shri D.V.Gangal, counsel for the applicant.

Shri Subodh Joshi, counsel for the respondents.

2. Shri Gangal states that the respondents have failed to comply with the judgement and order of the Tribunal dated 19.7.93 in OA 486/92, in which a direction had been given that the order is to be complied within three months from the date of receipt of a copy of the order and furnishing the indemnity bond and sureties by the applicant. Shri Gangal states that the indemnity bond and sureties have been furnished by the applicant but the respondents have failed to pay the amount as directed by the Tribunal.

3. The learned counsel for the respondents has filed an affidavit with copy to the counsel for the applicant. He states that the respondents have filed (an) SLP in the Supreme Court against the judgement on 11.2.94. They have, however, not obtained any stay order from the Supreme court, staying the judgement of this Tribunal.

4. In view of the above, Shri Joshi prays for some more time to comply with the judgement.

5. In view of the fact that there is no ~~stay~~ order of staying the judgement from the Hon'ble Supreme Court in this matter, the respondents are directed to comply with the order of the Tribunal within two weeks from today, unless they are able to obtain a stay order from the Supreme Court in the meantime.

6. Keep the case for orders on C.P. on 28.2.94.

7. Copy of the order may be given to the parties.

*Lakshmi Swaminathan*  
(Lakshmi Swaminathan)  
Member (J)