

(9)

CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

Original Application No: 717/92.

~~Transferred Application No:~~

DATE OF DECISION: AUGUST 24, 1994.

Shri Ganapati S. Pawar, Petitioner

Shri S. P. Kulkarni, Advocate for the Petitioners

Versus

Union Of India & Others, Respondent

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

~~PCV~~  
CORAM :

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

~~Transferred Application No:~~

1. To be referred to the Reporter or not ? W
2. Whether it needs to be circulated to other Benches of the Tribunal ? W

  
( M. S. DESHPANDE )  
VICE-CHAIRMAN.

(16)

BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

O.A. NO.: 717/92.

Shri Ganapati S. Pawar ... Applicant.

Versus

Union Of India & Others ... Respondents.

CORAM :

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

APPEARANCE :

1. Shri S. P. Kulkarni,  
Advocate for the applicant.
2. Shri S. S. Karkera for  
Shri P. M. Pradhan,  
Advocate for the respondents.

ORAL JUDGEMENT

DATED : AUGUST 24, 1994.

( Per. Shri M. S. Deshpande, Vice-Chairman ).

1. By this application, the applicant claims that he should be awarded pension by virtue of his compulsory retirement on 20.05.1985.

2. The applicant is born on 24.05.1945. He was in Air Force as Airman from 25.02.1965 to 20.11.1970 and was discharged on medical grounds on 20.11.1970. On 01.12.1972 he was appointed as a Postal Clerk on probation for a period of three years with effect from 01.12.1972. Though a vacancy was left for him, he was not confirmed although he had passed the confirmation

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examination on 11.11.1973. There is no dispute about the position that the applicant had completed more than ten years of qualifying service as required under Rule 2(ii) of the CCS Pension Rules. The applicant was not granted pension upon a technical plea by the Audit Office that there was no confirmation order in his case. The applicant's contention is that, his confirmation did not come about due to administration's lapses and he should be given all pensionary benefits. The respondents produced a letter dated 19.07.1988 which was with reference to the letter of the Post Master General issued on 16.06.1988. It is apparent that a post was vacant for the applicant upto the year 1985 and there were no circumstances rendering him ineligible for pension except the technical point of his non-confirmation. The Learned Counsel for the respondents was not in a position to offer any plausible reason as to why the applicant was not confirmed in the circumstances stated above. The position of law is now well settled in view of the decision of the Supreme Court in S.C. Kazrekar V/s. Dadra & Nagar Haveli 1992 (2) CLR 678 where it was held that when the question of confirmation of the applicant was due in the year 1967 it could not have been affected by enquiry which was initiated at a much later stage and since a permanent post was available, the applicant was entitled for confirmation. The same position obtains in the present case.

3. In the result, the respondents are directed to sanction, release and pay the compulsory retirement



pension in terms of Rule 49(2)(b) of CCS Pension Rules, as the applicant would be deemed to have been confirmed in the grade of Postal Assistant. This order be implemented within a period of three months from the date of communication of this order to the respondents.

  
( M. S. DESHPANDE )  
VICE-CHAIRMAN.

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