CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO: 1042/1993

DATE OF DECISION:26/7/2001

K.V.Satyavageeswaran ---------- Applicant

Shri L.M.Nerlekar ---------- Advocate for Applicant.

Versus

Union of India ---------- Respondents.

Shri S.C.Dhawan ---------- Advocate for Respondents.

Coram:
Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman(J)
Hon'ble Shri V.K.Majotra, Member(A)

1. To be referred to the Reporter or not? yes
2. Whether it needs to be circulated to other Benches of the Tribunal? No.
3. Library.

(SMT.LAKSHMI SWAMINATHAN)
VICE CHAIRMAN(J)

abp

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
O.A.No.1042/1993

Mumbai this the 26th day of July, 2001

CORAM:HON'BLE SMT. LAKSHMI SWAMINATHAN, VICE CHAIRMAN(J)
HON'BLE SHRI V.K.MAJOTRA, MEMBER(A)

Shri K.V.Satyavageeswaran,
Retd.Asstt. Engineer,
South Eastern Railway on
absorption in Indian Railway
Construction Company Ltd and
retired as Manager, Indian
Railway Construction Co.Ltd,
Cidco Bhavan, 6th Floor, CBD,
Belapur, New Bombay and residing at
12/268, Dhirendra Mansion,
Sion Road(East),
Bombay - 400 022. ... Applicant

By Advocate Shri L.M.Nerlekar

V/s.

Union of India,
Through General Manager,
South Eastern Railway,
Garden Reach,
Calcutta-700 043. ... Respondents

By Advocate Shri S.C.Dhawan

(ORDER)(ORAL)

(Hon'ble Smt.Lakshmi Swaminathan, Vice Chairman(J)

In this application, the main reliefs prayed for by the applicant are that a direction should be given to the respondents to

i) revise his date of absorption in the Indian Railway Construction Co. Ltd (IRCON) w.e.f. 9/6/1988 i.e. the date of issue of the Railway Board letter and to pay amounts by way of interest as per his statement (Exhibit A-1).

2. From the facts stated by the respondents in their reply affidavit, it is noted that the applicant, while working as Chief

...2.

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
O.A.No.1042/1998

Mumbai, this the 26th day of July, 2001

CORAM:HON'BLE SMT. LAKSHMI SWAMINATHAN, VICE CHAIRMAN(J)
HON'BLE SHRI V.K.MAJOTRA, MEMBER(A)

Shri A.V. Satyavadeswaran,
Ex-Asstt. Engineer,
South Eastern Railway on
absorption in Indian Railway
Construction Company Ltd and
retired as Manager, Indian
Railway Construction Co.Ltd,
Flat No.Dhruvan, 8th Floor, CBD,
Belapur, Navi Mumbai and residing at
12/298, Indira Andra Nagar,
Sion Road(East),
Mumbai - 400 022. ... Applicant

By Advocate Shri G.M.Vatsala

Vs.

Union of India,
through General Manager,
South Eastern Railway,
Garden Reach,
Calcutta 700 043. ... Respondents

By Advocate Shri S.C.Dhawan

(ORDER)(ORAL)

Hon'ble Smt.Lakshmi Swaminathan, Vice Chairman(J)

In this application, the main reliefs prayed for by the applicant are that a direction should be given to the respondents to release his dues of deemptement in the Indian Railway Construction Co. Ltd (IRCON) w.e.f. 31/8/1989 i.e. the date of issue of the Railway Board letter and to pay amounts by way of interest as per his statement Exhibit A-1).

2. From the facts stated by the respondents in their reply affidavit, it is noted that the applicant while working as Chief

...2.

Estimator under CE(Con), South Eastern Railway/BSP was relieved from the construction organisation by this Railway to join Metro Railway at Bombay w.e.f. 31/3/71. While working with Metro Railway, Bomaby he was empanelled for ad-hoc promotion to the post of AEN. Thereafter he proceeded on deputation to IRCON/New Delhi w.e.f. 18/9/95. They have referred to the Railway Board's letter dated 9/6/98 (Annexure R-1) by which it is stated that the applicant has been permanently absorbed in IRCON w.e.f. 18/9/85. The learned counsel for applicant has relied on the judgement of the Tribunal (Bombay Bench) in AKB Pillai & Ors. V/s. General Manager, Western Railway (OA 272/88 with connected cases) decided on 13/6/91, copy placed on record. In that case following an earlier judgement of the Principal Bench of the Tribunal in P.M.Venkatesan V/s. Union of India (OA 381/86) the Bombay Bench has held that the retrospective absorption cannot be upheld and the petitioners were deemed to have been absorbed permanently with IRCON with effect from the date of the year the absorption was issued i.e. 11/11/85. The facts in that cases are on all fours with the present case. Accordingly, the prayer of the applicant that he should be deemed to have been absorbed with IRCON from the date of issue of the Railway Board letter dated 9/6/1988 is allowed and the order dated 9/6/1988 is quashed and set aside to the extent that it operates retrospectively. In other words, the applicant shall be deemed to have been absorbed permanently with IRCON w.e.f. 9/6/1988.

...3.

3. Regarding the claims of the applicant for interest on various amounts from the due date till the actual date of payment, it is relevant to note that the respondents themselves have stated that some time has been taken to release the same to him.

a. **Provident Fund:-**

We note that the respondents have paid the Provident Fund dues on different dates from 8/6/89 till 12/4/90, whereas the same had become due from 9/6/88. In the circumstances, we direct the respondents to pay the applicant the due interest on delayed payments of Provident Fund from 9/6/88 till the dates of actual payment in accordance with the relevant Rules.

b. **DCRG:-**

Learned counsel for applicant had submitted that the DCRG amount due to the applicant may be directed to be paid to him with interest, minus the amount due to be deposited by him/IRCON (Rs.2,896/- with interest). He has further submitted that as a number of years has lapsed, this may be ordered to be done without further delay.

Taking into account the facts and circumstances of the case and also considering the fact that the applicant has retired long back, the respondents are directed to release the due amount of DCRG to the applicant without further delay after adjusting the amount due from the applicant/IRCON in accordance with the rules and they shall also pay interest on the difference amount @ 10% p.a. from 9/6/88 till the date of actual payment.

(c). COMMUTED VALUE OF PENSION:-

Considering the averments made by the respondents in their reply that they have paid the leave salary due to the applicant on 18/5/90, we consider it appropriate to direct them to pay an interest of 10% p.a.on the amount of Rs.7,010/- w.e.f. three months of the due date which will be taken as 1/9/88 to 17/5/90.

(d). COMMUTATION OF PENSION:-

We note from the reply filed by the respondents that after initially having lost the relevant documents, the applicant himself had submitted the relevant papers and medical reports for payment of the commuted value of pension only on 8/11/93 and the same has been arranged to be paid by the respondents on 15/3/94. In the circumstances, the claim for interest on commutation value of pension is rejected.

(e). RAILWAY GROUP INSURANCE SCHEME:-

Taking into account the facts and circumstances of the case regarding payment of the insurance, we are uanble to agree with the contention of the applicant that there has been undue delay on the part of the respondents to pay this, to justify granting interest on this amount. Accordingly, the claim for interest on this amount is rejected.

...5.

(6) We do not find any specific claim of the applicant with regard to what has been referred to in paragraph 1(6) of the OA in the statement given at Annexure A-1. In the circumstances, this claim is rejected.

4. In the result, OA partly succeeds ~~and~~ in para-3 above. Necessary action shall be taken by the respondents in respect of payments due by way of interest as ordered above as early as possible and in any case within three months from the date of receipt of a copy of this order. No costs.

(V.K.MAJOTRA)
MEMBER(A)

(MRS.LAKSHMI SWAMINATHAN)
VICE CHAIRMAN

abp