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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 79/93

Transfer Application No:-

DATE OF DECISION 27-10-93

Smt. R.N.Surve

Petitioner

Shri B.W.Vaidhya

Advocate for the Petitioners

Versus

Union of India through Chief

Respondent

General Manager M.T.N.L.Bombay

Shri V.S.Masurkar

Advocate for the Respondent(s)

CORAM:

The Hon'ble ~~3xxx~~ Smt. L.Swaminathan, Member(J)

The Hon'ble Shri

1. ~~Whether Reporters of local papers may be allowed to see the Judgement ?~~ *yes*
2. To be referred to the Reporter or not ?
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*

L.Swaminathan
(Smt.L.Swaminathan)
Member(J)

(6)

CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

Original Application No. 79/93

Smt. R.N. Surve

... Applicant.

V/s.

The Chief General Manager
Mahanagar Telephone Nigam Ltd.,
Bombay, Telephone House,
Veer Savarkar Marg.,
Bombay.

Union of India through the
Secretary,
Department of Telecommunications,
Sanchar Bhavan,
Ashoka Road,
New Delhi.

... Respondents.

CORAM: Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Appearance:

Shri B.W. Vaidhya, counsel
for the applicant.

Shri V.S. Masurkar, counsel
for the respondents.

ORAL JUDGEMENT

Dated: 27.10.93.

¶ Per Smt. Lakshmi Swaminathan, Member (J) ¶

3 This application has been filed under section 19 of the Administrative Tribunals Act 1985, praying that the Tribunal may direct the respondents to consider the applicant's option for revised pay scale submitted after the last date of receiving the option, namely 31.8.1988 by the Assistant Engineer in his letter dated 18.2.89 as valid, and further to direct the respondents to fix her pay in the revised scale of pay.

18. 2. Admittedly the applicant, Smt. R.N. Surve, has submitted the option for fixation of pay under the Central Civil Services (Revised Pay) Rules 1986 after the prescribed date i.e. 31.8.88. Admittedly also the particular circular of the Department dated 27.5.1988 was ^{not circulated} in time by the Controlling Office

of the applicant, namely the Cooperage Exchange, Bombay. Due to this administrative lapse on the part of the Bombay office, they referred the applicant's case, along with two other cases, to the Ministry of Communications at New Delhi, for extension of the period of option. The Ministry of Communications after considering the reference, in consultation with the Ministry of Finance, did not agree to the proposal for condonation of delay, vide their letter dated 27.11.91. Hence, being aggrieved by this decision the applicant has filed this application for directions to the respondents to accept her option submitted vide letter dated 18.2.89.

3. The learned counsel for the applicant stressed the point that the delay on the part of the applicant in exercising the option was due to non-circulation of the relevant circular and not due to any fault on her part. He also emphasised that as soon as the applicant became aware of the option that was available to her, in the revised pay scale which came into effect on 1.1.86 after the 4th Pay Commission, she exercised the option on 15.2.89 i.e. within a period of six months after the original date for exercising the option was extended from 31.12.87 to 31.8.88.

4. The learned counsel for the respondents argued that the applicant is challenging the order of the Ministry dated 27.11.91 and is, therefore, barred by limitation under section 21 of the Administrative Tribunals Act. He further stated that since, the general decision has been taken by the Ministry in respect of condonation in all such cases, it would not be in the fitness of things or in public interest to make a relaxation only in respect of the applicant.

5. It is noted that the Department has taken suitable action against the concerned officer for dereliction of duties in not circulating the relevant circular. However, this will not help the applicant in this case. She is in service, and in the circumstances, it is not possible to accept the contention of the applicant, that she was not at all aware of the revision in the pay scales and other conditions attached thereto as a result of the recommendations of the 4th Pay Commission which came into effect from 1.1.86, till 1989. The respondents had also extended the original date for exercising the option from 31.12.87 to 31.8.88 to all persons. In this way, it is clear that the applicant and other similarly placed Government servants had ample time and opportunity to exercise the option in respect of the revised pay scales and no case has been made out by the applicant for the delay of six months. The Ministry of Communication's letter dated 27.11.91 does not appear to be either unreasonable or arbitrary, which warrants any interference from this Tribunal at this stage in favour of the applicant.

6. In the facts and circumstances of the case the application is dismissed. There shall be no order as to costs.

Lakshmi Swaminathan
(Lakshmi Swaminathan)
Member (J)