

(9)

CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

Original Application No: 121/93

Transfer Application No:

20.7.1994  
DATE OF DECISION:

E.K.Phatak

Petitioner

Shri S.Natarajan.

Advocate for the Petitioners

Versus

Union of India & Ors.

Respondent

Shri A.I.Bhatkar.

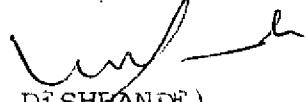
Advocate for the Respondent(s)

CORAM :

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

The Hon'ble Shri

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

  
(M.S. DESHPANDE)  
VICE-CHAIRMAN

(10)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
BOMBAY BENCH, BOMBAY.

Original Application No.121/93.

E.K.Phatak. .... Applicant.

V/s.

Union of India & Ors. .... Respondents.

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

Appearances:-

Applicant by Sh. S.Natarajan.  
Respondents by Shri A.I.Bhatkar.

Oral Judgment:-

(Per Shri M.S.Deshpande, Vice-Chairman) Dt. 20.7.1994.

By this application the applicant claims full pension from 1.3.1991 to 4.2.1992 as the commuted value of pension had been paid to him on 5.2.1992. The applicant was prematurely retired on 24.4.1986 and the order of premature retirement was set aside on 17.11.1988 with a direction to pay full backwages and all benefits to the applicant by the Department. The applicant joined duty on 9.12.1988. He retired on superannuation on 28.2.1991. On 20.3.1993 an order directing reduced pension after commutation was passed, but the commuted value of the pension Rs.55,168/- was paid to the applicant on 23.1.1992. The applicant's contention is that he was entitled to full pension till commutation value is disbursed. There is no dispute in the present case about the quantum of the commuted value of pension or adjustment of that amount towards the other dues owed to the Respondents.

2. In para 5 of the respondents reply it is stated the manner in which the amount came to be adjusted. An amount of Rs.55,168/- was paid to the applicant on his premature retirement towards pension D.C.R.G. The pension <sup>was</sup> stopped by the Bank w.e.f. .... 2.

1.3.1989. In addition to the pension, the Respondents have paid death-cum-retirement gratuity of Rs.51,563/- plus C.G.E.I.S. Rs.1,816/- to the applicant totalling to an amount of Rs.1,08,547/-, this amount was to be recovered from pay and allowances payable to the applicant from the period 24.4.1986 to 8.12.1988 and that amount worked out to Rs.1,25,976/-. The applicant had not given the non-employment certificate and he refused to furnish such a certificate by stating that the reinstatement order did not contain any such stipulation. There was a protracted correspondence and recovery of Rs.1,08,547/- as mentioned earlier was made after obtaining Collector's Order dt. 21.2.91 out of the gratuity of Rs.61,050/- and commuted value of pension of Rs.75,689/- payable to the applicant on his retirement on his superannuation.

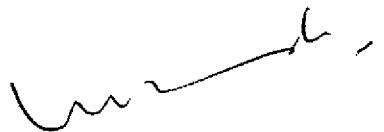
3. The respondents further statement that the arrears of pay and allowances for the period from 24.4.1986 to 8.12.1988 was again recovered from the above arrears. The same was recovered out of the commuted value of pension released under the Respondent's office authority dt. 23.1.1992. Upon the applicant's retirement on superannuation w.e.f. 28.2.1991 authority ~~for~~ the payment of commuted value of Rs.75,689/- were issued under the Respondents letter dt. 26.2.1991.

4. The Respondents produced the order dt. 26.2.1991 by which the amount of Rs.75,689/- was sanctioned as commuted value of pension and in that they mentioned that the commuted amount was to be recovered and was to be adjusted towards pension Rs.75,689/- and the net amount payable was nil. The Receipt No.8429 dt. 4.3.1991 (Ex. R-2) shows that

an amount of Rs.75,689/- was to be recoverable and adjusted towards pension. This adjustment was done by the Respondents internally, but that does not explain the payment order dt. 23.1.1992 by which sanction of Rs.55,168/- towards the commuted value of pension was made. Though the Respondents contention is that nothing remained to be paid because the commuted value of pension had been adjusted on 4.3.1991 i.e. immediately upon the retirement of the applicant on 28.2.1991, factually the order to this effect had not been passed till 23.1.1992. Though the respondents will be entitled to adjust the amount of commuted value of pension towards the excess amount of pension and gratuity paid to the applicant, the legal position would be clear from the proviso (b) to Rule 6(1) of the C.C.S. (Commutation of Pension) Rules, 1981 which says that in the case of an applicant who is drawing pension from a branch of a nationalised bank, the reduction in the amount of pension on account of commutation shall be operative from the date on which the commuted value of pension is credited by the bank to the applicant's account to which pension is being credited. The position therefore is clear that the adjustment which had been effected by the Respondents cannot operate to deprive the applicant of the full pension for the period from 1.3.1991 to 4.2.1992.

5. The respondents are therefore directed to pay full pension without deduction of the commuted value of the pension to the applicant

from 1.3.1991 to 4.2.1992 less the reduced amount of pension which has already been paid to the applicant within a period of two months from the date of communication of this order to the Respondents. No order as to costs.

  
(M.S. DESHPANDE)  
VICE-CHAIRMAN

B.