

3

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 713/94

Transfer Application No:

DATE OF DECISION: 22.11.1994

Shri N.B. Ranawade

Petitioner

Shri G.K. Masand

Advocate for the Petitioner

Versus

Union of India & Ors.

Respondent

Shri Suresh Kumar for Sh.M.I. Sethna

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 ?
2. Whether it needs to be circulated to other Benches of the Tribunal ?


(M.S.DESHPANDE)
VICE CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

OA.NO. 713/94

Shri N.B.Ranawade

... Applicant

V/S.

Union of India & ors.

... Respondents

CORAM: Hon'ble Vice Chairman Shri Justice M.S.Deshpande

Appearance

Shri G.K.Masand with
Shri G.R.Menghani and
Ms.S.Gode
Advocate
for the Applicant

Shri Suresh Kumar
for Shri M.I.Sethna
Advocate
for the Respondents

ORAL JUDGEMENT

Dated: 22.11.1994

(PER: M.S.Deshpande, Vice Chairman)

The applicant challenges the order dated 6.2.1991 (Exhibit-'A') by which his entitlements were fixed and an amount of Rs.75213.10 was sought to be recovered from him.

2. The applicant retired from Naval service in the year 1974 on the pension of Rs.281/- . He was re-appointed as Skipper at Rs.840/- in the scale of Rs.840-1200 w.e.f. 12.10.1974 and was retired from that service on 28.2.1985. The applicant's pension was not fixed at the time of ^{refinement} pension. The applicant was not paid any amount of pension except some amount of gratuity. By the impugned order dated 6.2.1991 it was stated that the applicant had earned service pension Rs.281/-p.m. w.e.f. 7.12.1974 and service Gratuity Rs.8,733.75 and he joined Bombay Customs on 8.10.1974.

There is no dispute about the fact that these amounts have been paid to the applicant. The order further reads that on re-employment the applicant's pay was fixed at Rs.840/- without adjusting the pension deduction factor and till his retirement the pay was not regulated according to "Re-employment pay Regulation Rules and he had not opted for counting of military service. Under Rule 1(b) the initial pay of the re-employed pensioner should be fixed at the minimum stage of the pay scale provided the initial pay plus the gross amount of pension and/or pension equivalent DCRG does not exceed the pay before his retirement. With that letter ^{was} ~~was~~ ^{was} appended a statement how the fixation was to be done.

3. Two challenges have been raised by the applicant to this order. One is that the order could not have been passed to his detriment ^{recently} ~~merely~~ six years after his retirement and 16 years after his appointment, and secondly, the applicant's cadre, namely, that of Skipper was discriminated from that of Engineers and Assistant Engineers who were appointed on the same pay scale and had to perform duty on the same boat. The matter is no longer res-integra in view of the decision of this Tribunal in Chamel Singh vs. Union of India OA.NO. 395/91 decided on 18.10.1991 (Ex.'I'), there the Division Bench of this Tribunal upheld the contention raised by Chamel Singh, Skipper's Mate i.e. Assistant to the Skipper.

4. The position that this case would cover the case of the applicant has not been disputed. It is the case of the respondents that the applicant could not be entitled to claim interest because he had not been confirmed when

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he had retired on 28.2.1985 and the retrospective order confirming him a day prior to his retirement came to be passed on 28.5.1990. It is apparent that the applicant will be entitled to interest w.e.f. 28.5.1990 on the lines of Rule 68 of the Pension Rules from 28.5.1990, once the order dated 6.2.1991 is set aside.

5. In the result, the order dated 6.2.1991 is quashed and the respondents are directed to work out the entitlements of the applicant by ignoring the order dated 6.2.1991 and pay arrears of pension from the date of his retirement on 28.2.1985 within three months from the date of communication of this order to the respondents subject to the applicant performing the formalities required for payment of pension. The applicant will be entitled to interest on the amount of pension from 28.5.1990 as per rates provided under Rule 68 of the Pension Rules. The applicant will also be entitled to DCRG on the above lines.



(M.S.DESHPANDE)
VICE CHAIRMAN

mrj.