

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 1254/95

Transfer Application No.

Date of Decision 14-3-1996

Shri P.M. Gharade

Petitioner/s

Shri K.B. Talreja

Advocate for
the Petitioners

Versus

Union of India & Others

Respondent/s

Shri R.R. Shetty

Advocate for
the Respondents

CORAM :

Hon'ble Shri. V. Ramakrishnan, Member (A).

Hon'ble Shri.

- (1) To be referred to the Reporter or not ? *No*
- (2) Whether it needs to be circulated to other Benches of the Tribunal ? *No*

Present
(V. Ramakrishnan)
Member (A)

ssp.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, GULESTAN BUILDING NO. 6
PRESOCOT ROAD, FORT, BOMBAY 400001.

O.A. NO. 1254/95

Dated this 14th day of March 1996.

CORAM : Hon'ble Shri V. Ramakrishnan, Member (A).

Shri P.M. Gharade

By advocate Shri K.B. Talreja

... Applicant

v/s

Union of India & Others

By advocate Shri R.R. Shetty,
Central Govt. Standing Counsel

... Respondents

ORDER (ORAL)

(Per: Hon'ble Shri V. Ramakrishnan, Member (A)).

Heard Shri Talreja for the applicant and Shri Ravi Shetty for the Respondents. The applicant was facing disciplinary proceedings and an order was issued removing him from service w.e.f. 22-5-1990. Against this penalty, he preferred an appeal to the authorities and the appellate authority passed an order dated 15-10-1990 at Annexure - 1 reducing the penalty of removal from service to that of compulsory retirement with full pensionary benefits. Eventhough this letter was passed in the month of October 1990, the applicant was not paid retiral benefits and therefore he has filed the present O.A.

From pre-page:

2. The Tribunal by its order dated 23-11-1995 directed the Respondents to release P.F. accumulations and also make provisional pension within four weeks from that date. The Department has accordingly released Provident Fund contribution. They have also sanctioned provisional pension at the minimum of Rs. 375/- w.e.f. 23-5-1995. It is further seen from the letter of the Divisional office dated 23-1-1996 in the relevant file that certain payments in respect of the applicant had been arranged.

3. Shri Talreja states that so far as the principal amount is concerned, he has no quarrel as he submits that the Railways would have worked out whatever is due to the applicant. He is, however, aggrieved by the fact that the Railways have taken an unduly long time to release the same. He has also prayed for release of commutation of pension which amount has not been released. He also brings out that while the Tribunal had ordered payment of provisional pension, the applicant was paid at the minimum i.e. Rs. 375/-. He seeks relief of payment of commutation of pension and to release the pension as due instead of the provisional pension at the minimum as also interest on delayed payments.

4. It is seen from the foregoing that a part of applicant's demand has been met with by the Respondents i.e. Railways eventhough belatedly.

From pre-page:

5. In the facts and circumstances of the case, I dispose of the present O.A. with the following directions -

- 1) As regards commutation, the Railways will take the requisite action within four weeks from the date of receipt of copy of the order and thereafter pay the amount due to the applicant;
- 2) As regards pension, they will release full pension with dearness relief and other retiral benefits such as interim relief due to him as per rules from 23-8-1990 upto the date the commutation takes effect and thereafter make adjustment for commutation;
- 3) Railways are liable to pay interest at the rate of 12% p.a. on the delayed payment till the date of payment in respect of all retiral benefits (except commutation) with effect from ¹⁵⁻¹⁰⁻¹⁹⁹⁰ ~~23-8-1990~~ which is the date of the order reducing the penalty of removal from service to that of compulsory retirement.
- 4) No costs.

Original
(V. Ramakrishnan)
Member (A)

*Copies have already been served to
Respondents*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
MUMBAI.

CONTEMPT PETITION NO: 64 OF 1996.

IN
ORIGINAL APPLICATION NO: 1254 of 1995.

*a.a.a6
K.B.Talreja*
P.M.Gharade ... Applicant.

V/s.

~~Mr. xx xx xx~~
Union of India & Ors. ... Respondents.

I N D E X

Sr.No.	Description of documents filed.	Exhibit.	Page Nos.
1.	Contempt Petition for non compliance of the judgement.		<u>1-3</u>
2.	Copy of the Judgement dated 14.3.1996.	A - I	<u>4-5</u>
3.	Copy of Representation dated 16.4.1996.	A - 2	<u>6</u>
4.	Affidavit sworn in by the Applicant.		<u>7</u>

Mumbai CST.

K.B.Talreja
Signature of the Counsel.

K.B. TALREJA
B.A.
ANNAH HIGH COURT



1
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH/MUMBAI.

CONTEMPT PETITION NO: 64 of 1996.
IN
ORIGINAL APPLICATION NO: 1254 of 1995.

Shri P.M.Gharade,
Ex. Head Booking Clerk
Chembur, C.Rly., under
D.R.M.(C)/Mumbai CST.

.... Applicant.

V/s.

The Union of India through
Shri A.K.Banerjee, General
Manager, Central Railway,
Mumbai CST.

.... Respondent.

Shri Arun Debey,
Divisional Railway Manager,
Central Railway, Mumbai CST.

.... Respondent.

HUMBLE PETITION OF THE APPLICANT ABOVENAMED.

MOST RESPECTFULLY SHEWETH:

1. The above said O.A.No.1254/95 was allowed by this Hon'ble Central Administrative Tribunal, Mumbai Bench, consisting of Hon'ble Shri V.Ramkrishnan, Member (A), by their oral judgement dated 14.3.1995.

2. His Lordship, vide his judgement dated 14.3.1995 has pronounced as under:-

" 5. In the facts and circumstances of the case, I dispose of the present O.A. with the following directions:-

1. As regards commutation, the Railways will take the requisite action within four weeks from the date of receipt of copy of the order and thereafter pay the amount due to the applicant;
2. As regards pension, they will release full pension with dearness relief and other retiral benefits such as interim relief ~~xxxxxxxxxxxxxx~~ due to him as per rules from 23.8.1990 upto the

...P2/-

b

date of commutation takes effect and thereafter make adjustment for commutation;

3. Railways are liable to pay interest at the rate of 12% p.a. on the delayed payment till the date of payment in respect of all retiral benefits (except commutation) with effect from 15.10.1990 which is the date of the order reducing the penalty of removal from service to that of compulsory retirement.".

4. No costs. ".

'A-1'. A copy of the aforesaid Judgement is placed as Annexure-1.

3. The Applicant accordingly made a representation on 16.4.1996 requesting for implementation of the judgement as per orders of the Hon'ble Court. A copy of the said representation is placed as Annexure-A-2'

4. In the meanwhile Respondents filed an M.P. for extention of time for two months from 26.4.1996, which has expired on 25.6.1996. But till date of filing this C.P. no action has been taken to pay the commutation value of the pension, eventhough medical examination has been done long ago, prior to filing the M.P. for extension. Necessary forms have already been completed. But no action to pay him the commutation value is taken by the Respondents. Even the pension which is required to be paid along with dearness relief and other retiral benefits such as interim relief due to him as per rules from 23.8.1990 have not been paid.

5. This delayed payment attracts penal interest and not normal interest of 12% as directed by this Hon'ble Tribunal, since the Respondents have failed to honour the judgement, even after grant of extension to implement the judgement.

6. The Contemner/Respondents by all means , want to scuttle the judgement and have no intention to implement it even though personally visited and requested by the applicant several times.

7. The Contemners/Respondents are not sincere to honour

the judgements and are adopting delaying tactics for one reason or the other.

8. The Applicant therefore, politely pray as under:-

- a) That the contemner No. 1 & 2 be tried under law for wilfully and deliberately flouting the judgment dated 14.3.1996 and not releasing the payments towards commutation value, pension, all attending benefits along with 12% interest.
- b) That the contemners be ordered to obey and follow the directions of judgement and pass appropriate orders to get the applicants all the due payments along with penal interest of 24% as the delay is deliberate and wilfull.
- c) Such other and further relief or reliefs as may be just and expedient in circumstances of this case including the cost of this application be granted.

For this act of kindness, the applicant as is duty bound shall ever pray.

Mumbai, dated 1st day of July, 1996.

P.M. Gharade
(P.M. Gharade).

Verification:

Applicant.

I, P.M. Gharade, Applicant-Ex.HBC/CMBR, do hereby verify and state that the contents of this Contempt Petition are true to the best of my knowledge and legal submissions are based on legal advice which I believe to be true and that I have not suppressed any material facts.

So verified at Mumbai, this 1st day of July, 1996.

P.M. Gharade
(P.M. Gharade).

Advocate for the Applicant.

Applicant.

K. B. Talreja

K. B. TALREJA
B. A., LL.B.
Advocate High Court

[Signature]

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL BOMBAY BENCH
GULESTAN BUILDING NO: 6 PRESCOT ROAD, FORT BOMBAY-400 001.

O.A.No. 1254/95.

Dated this 14th day of March, 1996.

CORAM: Hon'ble Shri V.Ramkrishnan, Member (A).

Shri P.M.Gharade.

By advocate Shri K.B.Talreja.

... Applicant.

V/s.

Union of India & Ors.

By advocate Shri R.R.Shetty,

Central Government, Standing Counsel. ... Respondents.

ORDER (ORAL).

(Per: Hon'ble Shri V.Ramkrishnan, Member (A)).

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2. The Tribunal by its order dated 23.11.95 ~~xx~~ directed the respondents to release P.F.accumulations and also make provisional pension within four weeks from that date. The Department has accordingly released provident fund contribution. They have also sanctioned provisional pension at the minimum of Rs.375/- w.e.f. 23.5.1995. It is further seen from the letter of Divisional Office dated 23.1.96 in the relevant file that certain payments in respect of the applicant had been arranged.

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....P2/-

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4. It is seen from the foregoing that a part of applicant's demand has been met with by the Respondents i.e. Railways eventhough belatedly.

5. In the facts and circumstances of the case, I dispose of the present O.A. with the following directions:-

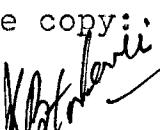
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- 3) Railways are liable to pay interest at the rate of 12% p.a. on the delayed payment till the date of payment in respect of all retiral benefits (Except commutation) with effect from 15.10.90 which is the date of the order reducing the penalty of removal from service to that of compulsory retirement.
- 4) No costs.

Sd/-

(V.RAMAKRISHNAN).

MEMBER (A)

Certified True copy:


K. B. TALREJA
B.A., LL.B.
Advocate High Court