

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH 'GULESTAN' BUILDING No.6  
PRESCOT ROAD, MUMBAI-1

FRIDAY, THIS THE 19TH DAY OF JULY, 1996

REVIEW APPLICATION No.75/96 IN  
ORIGINAL APPLICATION No.1009/95

SHRI V. RAMAKRISHNAN .. MEMBER (A)

Mohmed Sharif Ismail Shah,  
13, Tayabi Manzil  
4th Road, Prabhat Colony,  
Santacruz (E),  
Bombay 400 055.

Review Applicant

Vs

1. Superintending Engineer (Elec.),  
Bombay Central Electrical Circle,  
Central Public Works Department,  
(C.P.W.D.), 2nd Floor,  
New C.G.O. Building, Nishtha  
Bhavan, 48, Vithaldas  
Thackersey Road,  
New Marine Lines,  
Bombay - 20.
2. The Director general (Works),  
O/o the Directorate General of  
Works, Central Public Works  
Department, Ministry of Works  
and Housing,  
Government of India,  
(EC.-III Section) Nirman Bhawan,  
New Delhi-110 011.
3. The Pay and Accounts Officer,  
Pay and Accounts Office,  
C.P.W.D., (South-West Zone),  
Ministry of Works and Housing,  
Government of India,  
C.G.O. Annexe, 18th Floor,  
101, Maharishi Karve Road,  
Bombay-400 020.
4. The Pay and Accounts Officer,  
O/o the Central Pension Accounting  
Office, Ministry of Finance,  
Government of India,  
(Special Seal Revisional Authority)  
(Department of Expenditure),  
274, Shaheed Captain Gaur Marg,  
Shri-Niwas-puri, Near Okhla,  
Subzi Mandi,  
New Delhi - 110 065.

Respondents

O R D E R

The Review applicant Shri Mohmed Sharif Ismail

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Shah, has prayed for a review of my order granting interest on delayed payment of retiral dues with effect from 1.5.93 in respect of DCRG. and 1.2.93 in respect of other entitlements upto the date of payment and prays that <sup>in addition</sup> interest should <sup>also</sup> be awarded on DCRG leave encashment and pension commutation value from 1.1.92 upto 31.1.93 <sup>also</sup>.

2. The review applicant was applicant in OA.No.1009/95 disposed of by me on 13.3.96, when I was sitting in Mumbai Bench. This review application has been received by me in Bangalore on 17.7.1996.

3. The applicant, who was a C.P.W.D. employee was initially on deputation to NABARD some time in November 1991, he was asked whether he would like to be permanently absorbed in NABARD to which he consented. The C.P.W.D. also approved this on 22.12.1992. However, the formal order absorbing him in NABARD with effect from 22.12.1992 was issued only on 2.3.1994 and the applicant was deemed to have retired from government service with effect from 1.1.1992. As the applicant retired from NABARD service also on 31.1.1993, on completion of 58 years of age, and as there was considerable delay in release of the retiral benefits by the Government to the applicant who was retired retrospectively from Government service with effect from 1.1.1992, I had ordered payment of interest on DCRG from

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1.5.1993 and other retiral benefits from 1.2.1993 till the date of payment. This was done keeping in view the fact that even if he had continued in Government service he would have superannuated on 31.1.1993 and also taking note of the submission made on his behalf that for the period from 1.1.1992 upto 31.1.1993, no adjustment was made from his pay on account of pension. The fact that the applicant consented for his absorption in NABARD only when about a year was left for his normal superannuation date was also noticed.

4. In the present review application, the review applicant has contended that the assumption that no adjustment was made from his pay in NABARD on account of pension from 1.1.1992 to 31.1.1993, is not correct. He has included a statement showing that his pay in NABARD was fixed at Rs.3500/- and with total emoluments of Rs.6143/-, whereas if he had continued in Govt. service his pay would have been Rs.3625/- for a year and Rs.3750/- in January, 1993. His total emoluments including Pension in NABARD was only Rs.6143/-, whereas if he had continued under Government, he would have got Rs.6210/- from January, 1992 to June 1992, Rs.6630/- from July 1992 to December, 1992 and Rs.6755/- for January, 1993. He admits that if the pension amount is also added to his salary in NABARD, it would be more than what he would have got in CPWD during the relevant

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period. He contends that the fact that his emoluments were less in NABARD would show that the adjustment was actually made in respect of Pension due to him from the Government. He further brings out that he was free to negotiate his salary with NABARD.

5. The question of adjustment of Pension is generally viewed in the context that after his retirement his pay in the organisation would have been the last pay drawn minus Pension. Such is not the position here as the pay in NABARD along with Government Pension is much more than the last pay drawn by him under the Government before retirement. In any case, to a specific query, it was submitted on behalf of the applicant that no adjustment was made from his pay at NABARD on account of Pension for the period from 1.1.92 to 31.1.93. The details of the emoluments received by him in NABARD for the period in comparison with what he would have got in CPWD, if he had continued in Government service is obviously within the knowledge of the applicant. It is obviously not a case where any new and important material has since become known which after the exercise of due diligence was not within the knowledge of the applicant or could not be produced by him at the time when the O.A. was heard and disposed of.

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6. It is, therefore, not a fit case for review and the review application is accordingly dismissed.

Note: Review application decided at Bangalore on going through the papers.

  
(V. RAMAKRISHNAN)  
MEMBER (A)


psp.

22/10/96  
Order/Judgment despatched  
to Applicant/Respondent(s)  
on 25/7/96  
25/7/96

Per Tribunal

Date: 29/7/96

As there will be no Division Bench, the matter fixed on 29/7/96 (Monday) before the Tribunal is adjourned for Admission Hearing / Directions / orders / final hearing on 21/7/96 ml 515/96. Inform the advocates / Parties accordingly.

  
Dy. Registrar