

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 98/97

Transfer Application No.

Date of Decision 20.11.1997

Dr. (Mrs.) A.A.Puranik

Petitioner/s

Shri S.P.Saxena

Advocate for
the Petitioners

Versus

Union of India & Ors.

Respondent/s

Shri R.K.Shetty

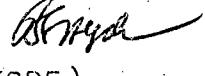
Advocate for
the Respondents

CORAM :

Hon'ble Shri. B.S.Hegde, Member (J)

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 ?


(B.S. HEGDE)
MEMBER (J)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

DA.NO. 98/97

Thursday, this the 20th day of November, 1997

CORAM: Hon'ble Shri B.S.Hegde, Member (J)

Dr.(Mrs.) Asha A. Puranik
Demonstrator (Retd.),
Armed Forces Medical College,
Wanori, Pune.
R/o Flat No. 2, "Lav-Kush",
Bharat Junj Colony No. 1,
Erandwana, Pune.

By Advocate Shri S.P.Saxena

... Applicant

V/S.

1. The Union of India
through The Secretary,
Ministry of Defence,
DHQ PO New Delhi.
2. The Maha Nideshak
Sashtra Sena Chikitsa Sewa,
Raksha Mantralaya, New Delhi.
3. The Commandant,
Armed Forces Medical College,
Wanori, Pune.
4. The Chief Controller of
Defence Accounts (Pension),
G 1/Civil Section (CP-x),
Draupadi Ghat, Allahabad.

By Advocate Shri R.K.Shetty
C.G.S.C.

... Respondents

O R D E R

(Per: Shri B.S.Hegde, Member (J))

Heard Shri S.P.Saxena, learned counsel
for the applicant and Shri R.K.Shetty, learned
counsel for the respondents.

BG

.. 2/-

2. The only prayer made in this OA. is interest on delayed payment of retirement benefits. The applicant was working as Civilian Demonstrator under the respondents. She was initially appointed on 3.7.1970 as Demonstrator and she sought voluntary retirement on 1.2.1992 by giving proper notice. The request for voluntary retirement was accepted by the competent authority on 31.12.1992. It is stated that the respondents gave the retirement benefit forms to the applicant before the expiry of voluntary retirement notice. The applicant again submitted an application requesting for voluntary retirement notice on the ground that applicant and similarly situated persons have been categorised as Group 'A' officers in view of the judgement in the month of January, 1993 of the Principal Bench w.e.f. 1.1.1994. The said judgement was received by the respondents on 27.2.1993.

3. The retirement benefits paid on the following dates :-

1. GPF Rs.1,40,130/- on 30.8.1993
2. Gratuity Rs. 62,775/- on 23.4.1994
3. commuted value of pension Rs.1,03,319 on 23.4.1994
4. Arrears Rs. 42,464/- on 23.4.1994
of pension
for the
month of
March, 93
to March,
94(13 months)

4. The contention of the learned counsel for the respondents is that the delay is not due to negligence. It is in view of Principal Bench decision. She had received letter vide dated 20.11.1993 where she has been requested to submit the pension papers in the revised pay scale. Therefore, there is some delay in making the payment of retirement benefits to the applicant. There was no reply from the applicant to this letter of the respondents. Apart from this, there was delay on the part of the applicant also.

5. Learned counsel for the respondents submits that though the pay fixation was finalised on 28.7.1993, the same is sent to Allahabad for sanction on 6.10.1993 and PPO issued on 23.3.1994. The contention of the applicant is since they did not make any payment either for P.F. or gratuity and provisional pension, the applicant approached the authority from time to time. The applicant sent letter vide dated 9.11.1993, thereafter again on 15.7.1994 requesting for release of the pensionary benefits. The mere fact that there is delay in getting arrears of pension, they have not paid the provisional pension also though it is due after the notice of one month is over. In the circumstances the applicant prays for interest on the delayed payment of retirement benefits.

6. During the course of hearing, the learned counsel for the applicant states that Rule 64 of CCS(Pension) Rules does not apply to voluntary retirement, it only applies to normal superannuation pension. Pension cases of voluntary retirement covered by Rule 48 of Pension Rules.

7. Respondents are directed to pay 12% interest on all retirement dues like pension, G.P.F., C.G.E.I.S., commutation of pension etc. for the period from 1.3.1993 to 23.4.1994. The same be paid within a period of three months from the date of communication of this order. With the above directions the OA. is disposed of with no orders as to cost.



(B.S. HEGDE)
MEMBER (J)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

R.P.NO. 8/98 in OA.NO.98/97

this the 24th day of June 1998

CORAM : Hon'ble Shri D.S.Bawej, Member (A)

Mrs. Asha A.Puranik ... Applicant

By Advocate Ms.Neelima Gohad

V/S.

Union of India & Ors. ... Respondents

By Advocate Shri R.R.Shetty
for Shri R.K.Shetty

Tribunal's Order

This Review Application has been filed
by the respondents seeking a review of order dated
20.11.1997 in OA.NO. 98/97.

2. The Hon'ble Member who had passed the
order dated 20.11.1997 has since retired. In view
of this, a new Bench has been constituted and the
review application is being disposed of after hearing
the parties. Heard the arguments of Ms.Neelima
Gohad, learned counsel for the applicant and Shri
R.R.Shetty proxy to Shri R.K.Shetty, learned counsel
for the respondents.

3. The Hon'ble Supreme Court has held through
several judgements that the power of review may be
exercised if there is some mistake or error apparent
on the face of record or discovery of new and important
matter or fact which after the exercise of due diligence
was not within the knowledge of the person seeking

and review could not be produced by him at the time when the order was made. The power of review is not to be exercised on the ground that the decision was erroneous on merits. The review of the order cannot be sought in disguise as an appeal.

4. Keeping the above parameters in view, the pleadings made to lay the foundation for seeking the review of the order dated 20.11.1997 have been carefully considered. It is noted that except in the case of payment of interest in respect of the payment of GPF, for the other issues, the averments have been made to seek the review of the order with regard to the payment of interest on merits. The respondents have pointed out various rules with regard to the admissibility of payment of interest for the commuted value of pension, gratuity and arrears of pension and the period for interest payment should have been allowed to the applicant. The learned counsel for the applicant during the arguments fairly conceded that through this review application, the review of the decision is sought on merits. As indicated earlier, the power of review cannot be exercised on the ground that the decision was erroneous on merits. It is noted that the review application is more of an appeal in disguise. In this view of matter, the review application is not sustainable except with regard to the payment of interest for GPF where it is noted that there is error apparent on the record. The respondents have brought out that the GPF payment was received by the applicant on 30.8.1993.

This is also brought out in the order dated 20.11.1997 in Para 3. The learned counsel for the applicant also admitted of having received the payment on 30.8.1993. However, that it is noted as per the direction in Para 7 of the order dated 20.11.1997, the payment of interest @ 12% has been ordered to be paid on GPF also for the entire period upto 23.4.1994. Since the payment of GPF has been received by the applicant on 30.8.1993, it is obvious that the interest is due for delayed payment upto this date. The respondents have also contended that the cheque for payment was ready on 12.1.1993 and therefore the interest payment will be admissible only after this date. This argument of the respondents is not convincing as the payment has been actually received by the applicant only on 30.8.1993 and therefore the applicant deserves payment of interest upto this date. Keeping this fact situation in focus, the direction in Para 7 with regard to payment of interest on GPF is modified to the extent that payment of interest @ 12% on GPF shall be paid upto 30.8.1993.

5. The application is partly allowed as per the direction given above. The respondents dated 20.11.1997 shall comply with the order/within a period of two months from the date of this order.

D. B. Patel
(D.S. BAWEJA)
MEMBER (A)

(O) mr.j.

24/6/98
order/Judgment despatched
to Applicant/Respondent(s)

ON 24/6/98 - *BB*
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