

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH.

R. P. NO.: 51/99 IN O.A. No. 1057/98.

CORAM : Hon'ble Shri Justice R.G. Vaidyanatha, Vice-Chairman.

Mahadeo Santu Awade ... Applicant

VERSUS

Union of India & Others. ... Respondents.

ORDER ON CIRCULATION

DATED : 07.12.1999.

This is a Review Petition filed by the applicant seeking review of the order dated 22.07.1999 passed by me in O.A. No. 1057/98. I have perused the entire case file including the contents of the Review Petition.

2. The applicant who was discharged from service while he was a member of the Contributory Provident Fund Scheme filed an application seeking benefit of Pension Scheme which was introduced by the Government of India. The Government circular provided the cut off date as 01.03.1969. Since the applicant had been discharged from service two years prior to 1969, I have held that he is not entitled to the benefit of pension scheme. I have also rejected the claim on the ground that it is highly belated, barred by time and delay and laches.

3. Fixing a cut off date while granting new benefits is a well known principle of law. The Government has fixed the cut off

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date as 01.03.1969 for granting pension scheme to contributory fund optees. The applicant is seeking review of the order in view of a judgement of a Division Bench of the Bombay High Court where the High Court has held that rejection of the claim of the Petitioner in that case for pensionary benefits on the ground that she had retired prior to the cut of date is not correct and direction was given to grant pensionary benefits to her, by following the observations of the Supreme Court in D. S. Nakara's case (A.I.R. 1983 SC 130). As already stated, fixing the cut of date is a well known principle in Service Law whenever pension rules are brought into force or whenever monetary benefits are given to employees. There are two recent ^{Constitutional} Statutory Bench judgements by the Supreme Court in Krishna Kumar's case (1991 SCC L&S 112) and case of Indian Ex-Services League and Others reported in 1991 SCC (L&S) 536 where two Constitutional Benches of the Supreme Court distinguished Nakara's case and held that the cut of date fixed by the Government is perfectly correct and not open to challenge.

There is no error apparent on record. The view of the Tribunal may be right or wrong and it can be tested in the proper forum. A review petition is not maintainable on the ground that the view taken by the Tribunal is wrong on a question of law. If the applicant is aggrieved by the order of the Tribunal, his remedy is else but certainly not in the form of Review Petition

unless there is some apparent error on record which is none in this case. Hence, I do not find any merit in the review petition.

4. In the result, the review petition is rejected by this order on circulation.



(R. G. VAIDYANATHA)

VICE-CHAIRMAN.