

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 486/91
T.A. No.

198

DATE OF DECISION 23 -12-1991.

K.T.Sastry

Petitioner

Advocate for the Petitioner(s)

Versus

Respondent

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. R.Balasubramanian, Member (A)

The Hon'ble Mr. T.Chandrasekhara Reddy, Member (J)

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

MGIPRRND—12 CAT/86—3-12-86—15,000

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. NO. 486 of 1991

Date of order: 23-12-1991.

Between

K.T.Sastry

... APPLICANT

A N D

Union of India, rep. by

1. The Secretary,
Dept. of Defence Production
and Supplies,
Ministry of Defence, New Delhi.

2. The Director,
Technical Development &
Production (Air),
Ministry of Defence, New Delhi.

... RESPONDENTS

Appearance:

For the applicant : Party in person

For the Respondents : Shri N.R.Devaraj, Addl.CGSC

CORAM:

The Hon'ble Shri R.Balasubramanian, Member (Administration)

The Hon'ble Shri T.Chandrasekhara Reddy, Member (Judicial)

JUDGMENT

(of the Bench delivered by the Hon'ble Shri R.Balasubramanian,
Member (A)).

This application is filed by Shri K.T.Sastry,
under Section 19 of the Administrative Tribunals Act, 1985
against the Secretary, Department of Defence Production
and Supplies, Ministry of Defence, and another with the

contd...2.

following prayer:

This Hon'ble Tribunal may be pleased to direct:

- a) the Respondents to pay immediately to the applicant, all his emoluments, consisting of his pay and allowances from the date of his arbitrary retirement on 1-12-88 till the date of his reinstatement in service on 19-1-90 (AN) amounting to Rs.1,12,186/- without deducting/ adjusting/recovering the pension and any other retirement benefits, including the commuted portion of the pension paid to him, from the above emoluments, in strict compliance of the Supreme Court orders dated 9-12-88, 12-1-90 and 6-4-90.
- b) the Respondents to pay (i) a monthly pension of Rs.2,858/- with effect from 1-12-1990 without recovering the commuted element of the pension of Rs.927/- per month and (ii) a Death-cum-Retirement Gratuity (DCRG) amount of Rs.96,525/- without recovering the amount of Rs.94,050/- paid to him earlier, as per the entitlements of the applicant, at the time of his retirement on 1-12-90 at the age of 60 years and in strict compliance of the Supreme Court orders; that the Respondents shall not recover any amount that has already been paid to the Applicant as his retirement benefits.
- c) the Respondents to pay to the Applicant (i) an amount of Rs.62,776/- towards leave encashment for 240 days of Earned Leave accumulated by him till 30-11-90 and (ii) an amount of Rs.10,572/- towards his entitlement under the Central Govt. Employees Group Insurance Scheme by 30-11-90, as per his entitlements of non-pensionary retirement benefits, without recovering the amounts of Rs.52,284/- and Rs.6,896/- respectively, paid to him earlier, in strict compliance of the Supreme Court decree dated 12-1-90; that the Respondents shall not recover any amount that has already been paid to the Applicant as his retirement benefits.
- d) The Respondents to pay to the applicant, a penal interest of 2% per month on the amount of Rs.1,12,186/- referred to at para (a) above, with effect from 12-1-90, the date on which Supreme Court orders were passed for the undue delay in (i) the payment of all the emoluments without recovering any of the retirement benefits paid to the Applicant and (ii) the punctual compliance of their orders, (aa) as he was subjected to financial loss due to delay in the payment of the full amount and (ab) as he was subjected to harassment and mental agony by forcing him to resort to legal redressal: within the scope of the Supreme Court orders dated 9-12-88, wherein it was decreed that the Applicant will be entitled to all the benefits in the event of the dismissal of the Respondents' SLP No.14433/88 which has since been dismissed.

e) the Respondents to pay to the applicant his costs incurred by him and further pass any other orders deemed fit in granting justice to him.

2. The applicant whose age of retirement was 58, ^{for a higher age of retirement} approached this Tribunal and by an order of the Full Bench was allowed to remain in service till the age of 60. This was appealed against by the respondents. This appeal was dismissed by the Hon'ble Supreme Court in its judgment dated 12-1-1990 in Civil Appeal No.4284 of 1988. Consequently, the applicant who was retired on 30-11-88 (on completing 58 years of age) was taken back into service on 19-1-1990. The Respondents filed a Review Petition before the Supreme Court and this was dismissed on 6-7-90. In its judgment dated 12-1-90, apart from other directions there was also this direction. "The appellants (Respondents herein) will not recover any amount so paid (retirement benefits already paid) to the respondent (applicant herein)." It is the contention of the applicant that in addition to the retirement benefits paid to him when he was retired on reaching 58 years of age, he should again be paid retirement benefits due to him when he finally retired at the age of 60. It is claimed that this was the intention of the Supreme Court to compensate him for the ordeal that he had undergone at the hands of the respondents. The Respondents did not pay according to his expectations and hence this O.A.

3. The Respondents opposed the application and have filed a counter. It is stated that in obedience to Supreme Court order no recovery was made.

4. The applicant has filed a rejoinder reiterating his stand.

5. Heard Shri K.T.Sastry, the party in person and Shri N.R.Devaraj, the learned Addl.CGSC on behalf of the Respondents. The applicant vigorously contended that the judgment dated 12-1-1990 of the Supreme Court read with the dismissed Review Petition filed by the Respondents should be taken to mean that besides being allowed to retain all payments made, he should again be paid all terminal benefits at the time of final retirement in November 1990. We have to see the acceptability or otherwise of this contention. The Respondents sought for a review of the decision of the Supreme Court and failed. This would take us back to the original judgment of the Supreme Court. Para 7 contains the direction of the Supreme Court which reads as under:

"We also understand that in the meanwhile the respondent was paid all his retirement benefits. The appellant will not recover any amount so paid to the respondent. The appeal is accordingly dismissed with aforesaid directions and with costs."

At the time of his retirement at the age of 58 he was paid a substantial lumpsum due to him under various heads. He was later taken back into service on 19-1-90 in pursuance of the Supreme Court decision and finally retired on 30-11-1990. The applicant contends that the Supreme Court wanted to compensate him by directing the respondents to pay him retirement benefits twice--once when he retired at the age of 58 and again when he finally retired at the age of 60. If this was the intention, the apex court would have clearly said so without leaving such a matter open to any other interpretation. There is no direction to pay all terminal benefits for the retirement in November 1988. The direction was only not to recover the terminal benefits already paid.

To

1. The Secretary, Union of India, Dept. of Defence Production and Supplies, Ministry of Defence, New Delhi.
2. The Director, Technical Development & Production (Air) Ministry of Defence, New Delhi.
3. One copy to Mr.K.T.Sastry, Party-in-person, 2-2-185/56/F, Bagh Amberpet, (near Excise colony, Lal Bungalow), Hyderabad-13.
4. One copy to Mr.N.R.Devraj, Addl. CGSC. CAT.Hyd. Bench.
5. One spare copy.

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6. We have to see if there was any recovery from the applicant.

(a) Lumpsum amount: under various heads: This is payable after retirement and actually due to him only after he retired finally on 30-11-90. But in this case, this was paid to him soon after his retirement on 30-11-88 when he completed 58 years of age. If this large amount was to be recovered when he was taken back in service, it would have caused considerable hardship to the applicant. The Respondents did not recover this amount, paid to him much ahead of his date of final retirement. Thus, there is no recovery on this score.

(b) Payment of salary and allowances for the extended 2 years period It is admitted by the Respondents that full salaries are payable to him as if he continued in service beyond 58 years of age. Before the Supreme Court's decision, he had been paid pension during a certain period. Therefore, for this period the respondents worked out the difference between pay and pension and paid ^{only} the balance to him. Thus, here also there was no recovery.

7. We thus find that the Respondents had not made any recovery and we are satisfied that the respondents have not departed from the direction of the Supreme Court. The only grievance of the applicant is that the Supreme Court order had not been implemented ^{even though fully implemented}. In view of what is stated already, we do not see any reason to interfere and accordingly dismiss the O.A. without any order as to costs.

R.Balasubramanian T. Chandrasekhara Reddy
(R.Balasubramanian) (T.Chandrasekhara Reddy)
Member (A) Member (J)

Dated: 23rd day of December, 1991.