

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD

OA.1140/99

dt.9-2-2001

Between

P. Karunakar Rao

: Applicant

and

1. Union of India, rep. by  
The Secretary to the Govt. of India  
Min. of Defence, New Delhi 1

2. Engineer-in-Chief, Army HQs  
New Delhi 110001

3. Controller General of Defence Accounts  
West Block-V, RK Puram, New Delhi 66

4. The Chief Engineer, Southern Command  
Pune 411001

5. The Director General  
Naval Project, Visakhapatnam 530014

6. Hindustan Shipyard Ltd. rep. by  
Chairman & Managing Director  
Hindustan Shipyard Ltd., Visakhapatnam : Respondents

Counsel for the applicant : K.V. Subramanya Narasu  
Advocate

Counsel for the respondents : V. Rajeswara Rao  
CGSC

Coram

Hon. Mr. Justice V. Rajagopala Reddy, Vice Chairman

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ORDER

Oral order (per Hon. Mr. Justice V. Rajagopala Reddy, VC)

Heard the learned counsel on either side.

2. Respondent No.6 is impleaded as a party in OA, as per order in MA.885/2000 and thereafter notice has been directed to be served on it. The same was sent by Registered post on 5-1-2001. The acknowledgement has not been received so far. Under Rule 25(C) of CAT Procedure Rules, as 30 days have passed from the date of issue of notice by registered post, it is deemed to have been served upon R-6. When the OA is taken up today, none appears for R-6.

3. The applicant seeks pro-rata retirement benefits, for the period from 1-2-1967 to 28-2-1977 during which he was in service with the Military Engineering Service (MES), Defence Ministry, ignoring the period of lien for two years when he resigned and joined the Hindustan Ship Yard Ltd. from 29-6-1977 to 31-3-1993.

4. The applicant was initially appointed in the Ministry of Defence in 1966 as Assistant Executive Engineer. Later he was appointed as Assistant Garrison Engineer, Chandrayanagutta, Hyderabad. He was later selected by way of Direct recruitment as Executive Engineer in the Hindustan Shipyard Ltd., Visakhapatnam. While serving as Assistant Executive Engineer in the office of Director General, Naval Command, Visakhapatnam, he resigned and joined as Executive Engineer in Hindustan Shipyards Ltd. on 29-6-1977. He was made permanent on 1-10-1979. It is stated that for a period of two years from 1977 to 1979 when he was serving with R-6, lien was retained

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in the Ministry of Defence, office of MES. The applicant later retired on 31-3-1993 while working in Hindustan Shipyard Ltd.

5. The applicant made several representations to the Respondent No.5 claiming pro-rata pension and other pensionary benefits including leave salary for the period during which he served with the MES from 1-2-1977 to 1-10-1979. This period includes period of lien.

6. The learned counsel for the applicant has now confined his claim for interest on the delay in payment of pro-rata pension other than gratuity for the period during which he worked with R-5 ignoring the period of two years of lien.

7. The learned counsel for the applicant submits that after filing the OF the respondents had paid the gratuity along with the interest. But as regards other pensionary benefits the respondents had no doubt paid the same but has not paid from the date on which they were due.

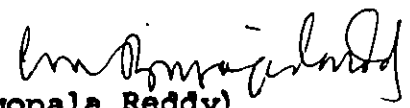
8. The learned counsel for the respondents contends that as the applicant had been making unlawful claims for pro-rata pension including for the period during which he was on lien even after joining Hindustan Shipyard Ltd, they had taken a stand that unless leave salary and pensionary contributions were paid by the applicant no pro-rata pension could be paid for the lien period. Hence, the payments for the period during which he worked with MES could not be settled.

9. Having heard the counsel for the applicant and the Respondents I am of the view that the applicant himself had contributed to the delay in payment of pensionary benefits.

It is now seen from the rejoinder filed, ~~that~~ he was now willing to pay back the amount demanded by the respondents i.e. pensionary contribution and leave salary for the lien period of two years.

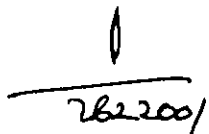
10. It is therefore evident that the applicant himself was responsible for the delay in settling the pro-rata pensionary benefits. Though the Supreme Court has taken the view that interest has to follow for the delay in payment of other pensionary benefits as the applicant himself has been making unjustifiable claims some delay had occurred in settling the pensionary benefits. They cannot therefore be called upon for payment of interest for the said delay.

11. In the result the OA fails and is dismissed. No costs.

  
(V. Rajagopala Reddy)  
Vice Chairman

Dated : 9 Feb., 2001  
Dictated in Open Court

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