CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 69 of 2005

Jabalpur, this the 26th day of July, 2005

Hon'ble Shri Madan Mohan, Judicial Member

Om Prakash Saxena, S/o. late Chokhelal
Saxena, Date of birth – 9th July, 1935,
R/o. E-8/115, Railway Housing Society,
Shiva Kunj, Near Bus Stop No. 12,
Arera Colony, Bhopal. .... Applicant

(By Advocate – Shri V. Tripathi)

Versus

1. Union of India,
Through Chairman, Railway Board,
Rail Bhawan, New Delhi.

2. The General Manager, West
Central Railway, Jabalpur.

3. The Divisional Railway Manager,
West Central Railway, Bhopal Division,
Bhopal. .... Respondents

(By Advocate –Shri S.P. Sinha)

ORDER (Oral)

By filing this Original Application the applicant has claimed the following main reliefs :

> "(ii) command the respondents to extend the benefit of judgment passed by the Mumbai Bench (FB) in OA No. 542, 942 and 943 of 1997 decided on 21.9.2001 and also the law laid down by Apex Court in V. Kasturi's case (supra) and accordingly command the respondents to add 97% DA in pay of the applicant for the purpose of calculating amendment and DCRG of the applicant. Consequently, direct the respondents to provide the arrears of the same within a stipulated time as deemed fit by this Hon'ble Tribunal,

(iii) direct the respondents to pay the interest on delayed payment in accordance with the judgment of the Supreme Court reported in 1994 (2) SCC 240 (G)."

2. The brief facts of the case are that the applicant is a retired employee of the respondent's department. The applicant submitted that at the time of his retirement the DA was not included in DCRG. The rate of DA was 97%. Hence, the applicant is entitled to 97% of basic pay as DA. Similar question arose before the Division Bench of the Tribunal which referred to Full Bench and the Mumbai Bench decided the said matter on 21.9.2001. The said judgment of the Mumbai Bench is a judgment in rem and not a judgment in personame. In this judgment the Full Bench has considered the circular of DOPT and set aside the cut off date of 1st April, 1995. The applicant preferred representation regarding his claim but the respondents have not yet decided the same. Hence, this Original Application is filed.

3. Heard the learned counsel for the parties and carefully perused the pleadings and records.

4. The learned counsel for the respondents stated that the Hon'ble Supreme Court in the case of State of Punjab & Ors. Vs. Amar Nath Goyal & Ors., in Civil appeal No. 129 of 2003, vide order dated 27.7.2004 has ordered that the writ petitions pending before the Bombay High Court shall stand transferred to this Court. He further submitted that the matter involved in this OA and the matter involved before the Hon'ble Supreme Court in the aforesaid Civil Appeal are exactly similar. Hence, as now this matter is subjudice before the Hon'ble Supreme Court, the outcome of the said Civil Appeal shall be applicable to the present OA as well. The learned counsel for the applicant agreed to the submission made by the learned counsel for the respondents.

5. Accordingly, in view of the submissions made above by the learned counsel for the parties, the present Original Application is also disposed

with a direction that the outcome of the said Civil Appeal No. 129/2003 shall be applicable in the present OA as well.

(Madan Mohan)
Judicial Member

"SA"

पृष्ठांकन सं ओ/न्या.....जबलपुर, दि.....
प्रतिलिपि उचित दिशा :—
(1) सचिव, उच्च न्यायालय बार एसोसिएशन, जबलपुर
(2) आवेदक श्री/श्रीमती/कु .....के काउंसल Shri V. Tripathi, H.C.GJBP
(3) प्रत्यर्थी श्री/श्रीमती/कु .....के काउंसल Shri S.P.Sinha, H.C.GJBP
(4) कंथपाल, केप्रअ., जबलपुर न्यायपीठ
सूचना एवं आवश्यक कार्यवाही हेतु
27/7/09
उप रजिस्ट्रार

27.7.09