

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR

Original Application No. 962 of 2005

Jabalpur, this the 9th day of December, 2005

Hon'ble Shri Madan Mohan, Judicial Member

Jagat Ram Sen, S/o. Shri
Gyarsi Lal Sen, Date of birth
5.7.1933, R/o. Chhola Kench,
Rly IInd Gate, Ram Nagar,
Bhopal.

.... Applicant

(By Advocate – Shri V. Tripathi on behalf of Shri S. Paul)

V e r s u s

1. Union of India, through its Secretary,
Ministry of Communication,
Deptt. of Post, New Delhi.

2. The Chief Post Master General,
MP Circle, Bhopal.

.... Respondents

O R D E R (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 Mumbai Bench (FB) in OA No. 542, 942 and 943 of 1998 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 personam. 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 applicant.

4. The learned counsel for the applicant submitted 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.

5. After hearing the learned counsel for the applicant I find that the Civil Appeal No. 129 of 2003 said to be pending before the Hon'ble Supreme Court has already been decided on 11th August, 2005 by the Hon'ble Supreme Court. The Hon'ble Supreme Court vide judgment dated 11th August, 2005 in the case of State of Punjab & Ors. Vs. Amar Nath Goyal & Ors., (2005) 6 SCC 754 has set aside the orders passed by the Mumbai Bench of the Tribunal as well as the Hon'ble Mumbai High Court and has observed that "Classification rule – Temporal Classification/cut-off date – Fixation of cut-off date – Service matter –



Financial constraint, held, was a valid ground for fixation of cut-off date for grant of benefit of increased quantum of death-cum-retirement gratuity – Hence, the action of Govt. in limiting the said benefit to government employees who died or retired on or after 1.4.1995 i.e. the cut-off date, was not arbitrary, irrational or violative of Article 14 – Service Law – Central Civil Services (Pension) Rules, 1972.”

6. As the learned counsel for the applicant agreed that the present Original Application is fully covered by the decision to be taken by the Hon'ble Supreme Court in Civil Appeal No. 129 of 2003 and as the Hon'ble Supreme Court has already decided the said Civil Appeal No. 129 of 2003 in the case of Amar Nath Goyal (supra) vide order dated 11th August, 2005, I find that the decision so taken by the Hon'ble Supreme Court in the aforesaid case shall mutatis mutandis applicable to be present case as well.

7. In view of the aforesaid position the present Original Application is also liable to be dismissed at the admission stage itself. Accordingly, the same is dismissed at the admission stage itself.

(Madan Mohan)
Judicial Member

“SA” पृष्ठांकन सं ओ/न्या.....जबलपुर, दि.....
पतिलिपि वाजे दित:-
(1) सचिव, उच्च न्यायालय, न्याय भवन, जबलपुर
(2) आवेदन सं. 12/12/05
(3) प्रत्यक्ष न्यायाधीश, न्याय भवन, जबलपुर
(4) न्यायाधीश, न्याय भवन, जबलपुर
सूचना एवं जांच, जबलपुर

उप रजिस्ट्रार

12/12/05

V. Tripathi
Advocate
2005