

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,
JAIPUR

This, the 16th day of September, 2005

ORIGINAL APPLICATION No. 106/05

CORAM:

HON'BLE MR. M.L.CHAUHAN, MEMBER (JUDICIAL)

Bhonrey Lal
s/o Shri Kajor Lal,
aged about 63 years
r/o 2-K-7, Housing Board,
Shastri Nagar, Jaipur,
Retired from the Office of
Pay and Accounts Officer,
Customs and Excise,
Jaipur

.. Applicant

(By Advocate: Mr. S.L.Thadani, proxy counsel to Mr. S.K.Vyas)

Versus

1. Union of India
through Secretary,
Ministry of Personnel,
Pension and Public Grievances,
Government of India,
North Block, New Delhi.
2. Union of India,
through the Secretary,
Department of Revenue,
Ministry of Finance, North Block,
Central Secretariat,
New Delhi.
3. Principal Chief Controller of Accountants,
Central Board of Excise and Customs, AGCR
Building I.D.Estate, New Delhi.
4. Controller of Accounts,
Ministry of Finance,
Department of Expenditure,
Lok Nayak Bhawan,
Khan Market,
New Delhi.
5. Pay and Accountant Officer,

Custom and Central Excise,
N.C.R.B.,
Statue Circle, Jaipur.

.. Respondents

(By Advocate: Mr. Gaurav Jain)

O R D E R

The controversy involved in this case is whether the applicant who retired on the last working day of the preceding month and whose annual increment falls due on the first day of the succeeding month is entitled for sanction of annual increment for the purpose of gratuity etc. The said request of the applicant was rejected by the respondents vide impugned letter dated 5.5.2004 (Ann.A3) whereby it is stated that the benefit of the decision of Andhra Pradesh High Court cannot be extended in the cases of retirement on superannuation.

2. Notice of this application was given to the respondents. The respondents have filed reply. In the reply it is stated that the Full Bench of Hon'ble High Court, Andhra Pradesh in W.P. 22042/2003 alongwith two other writ petition decided on 27.1.2005 in the case of Pr. Accountant General, Andhra Pradesh vs. C.Subba Rao and ors. by its judgment dated 27.1.2005 has considered the issue and held that the increment falling due on the first day of the succeeding months after the date of retirement cannot be granted.

3. Since the controversy involved in this case is squarely covered by the judgment rendered by this Tribunal in OA No. 418/2004, H.C.Shukla and ors. vs. Union of India and ors., and other connected matters decided on 15.9.2005, hence the applicant is not entitled to any relief. The claim of the applicant is based on the judgement in D.B.Writ Petition No. 1219 of 1998 of Hon'ble High Court of Andhra Pradesh in Union of India vs. R. Malakondiah, which has been overruled by the Full Bench decision of the Hon'ble High Court of Andhra Pradesh in the case of Principal Accountant General Andhra Pradesh, Hyderabad and anr. Vs. C.Subba Rao and ors. 2005 (2) ATJ 280.

4. Thus, in view of the law laid down by the Full Bench of the Andhra Pradesh High Court in the case of Principal Accountant General, Andhra Pradesh (Supra) the applicant is not entitled to any relief as the DB judgment of the Andhra Pradesh High Court in Malakondaiah's case has been overruled by the Full Bench and cannot be stated to be a good law.

5. Accordingly, the OA is dismissed with no order as to costs.


(M.L. CHAUHAN)
Member (J)

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