

S.R. BHANRALE
v.
UNION OF INDIA AND ORS.

JULY 19, 1996

[DR. A.S. ANAND AND K.T. THOMAS, JJ.]

Service Law—Pension and retiral benefits—Long delay in payment—Deprecation of—Department of Telecommunications—Assistant Director General—Service of 40 years—Superannuation—Payment of Pension made—Wrongful withholding of other retiral benefits (Encashment of earned leave, increment arrears, special pay due and LTC etc.)—Administrative Tribunal rejected employee's application but granted a lump sum interest of Rs. 200 on delayed payment of DCRG and GPF—Appeal—Before Supreme Court claim opposed on the ground of limitation but ultimately Department conceded the claim in part and paid after 12 years of retirement—Held it was improper for the employer to plead limitation against claim of its employees when the Department itself had defaulted the payment—Relief to employee—With a view to settling the equities and do complete justice between the parties—Government directed to pay rupees two lakhs to employee towards interest, compensation and litigation expenses for wrongful withholding of amount—In case the said amount is not paid within two months, it shall bear interest @ 12% per annum—Order of Tribunal set aside.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 9489 of 1996.

From the Judgment and Order dated 4.3.93 of the Central Administrative Tribunal, New Delhi in O.A. No. 1302 of 1987.

Ranjit Kumar for the Appellant.

V.C. Mahajan, S.M.A. Quadri and C.V.S. Rao for the Respondents.

The following Order of the Court was delivered :

Leave granted.

This is rather an unfortunate case. The appellant joined his service as an Engineering Supervisor in the year 1946. He served the department

- A in various capacities and superannuated on 31st July, 1984 when he was serving as an Officiating Assistant Director General (LTP), Department of Telecommunications, Government of India, New Delhi. An order for payment of pension was issued on 24.8.1984 and the pension amount was paid to him on 11.10.1984. The Union of India which was under a statutory obligation to settle and decide his retiral benefits and other claims by 31st July, 1984 failed to discharge those statutory obligations and his claims remained, unsettled. The appellant had to undergo tremendous hardship as his claim for encashment of earned leave, increment arrears, special pay due, LTC etc. remained unsettled and his numerous representations to the department also evoked no response. The appellant thereafter served a notice under Section 80 C.P.C. claiming his dues together with interest and compensation. Even that did not make the respondents move. Ultimately the appellant filed an original application in the Central Administrative Tribunal, Principal Bench, New Delhi in 1987. The Tribunal issued notice to the respondents and granted numerous opportunities to the Union of India to file the counter and meet the claims as set up by the appellant. No counter was however, filed and the claim remained unrebutted. However, the Central Administrative Tribunal through the order impugned in this appeal rejected the application of the appellant and award a lump sum amount of "Rs. 200" by way of interest on delayed payment of death-cum-retirement gratuity and G.P.F. "as full compensation". The D.C.R.G. was paid to the appellant on 10.12.1984 and G.P.F. on 1.2.1985. The appellant approached this Court.

- On notice being issued in the Special Leave Petition, the respondents filed their counter alongwith some documents in this Court denying the claim and pleading that his claim to encashment of earned leave, increment arrears etc. was barred by time. By an order dated 10th April, 1995 we directed the General Manager, respondent No. 3, to look into the grievances of the appellant as project in the affidavits filed by him before the Central Administrative Tribunal as well as in this Court and submit a detailed affidavit about the merits of those grievances. Various proceedings took place thereafter but we do not find it necessary to advert to those proceedings. Suffice it to say that after initially denying all the claims of the appellant, the Department of Telecommunications on 21st April, 1986 conceded through a statement filed in this Court under the signatures of Shri O.P. Arya, Director (TS), which was also supported by an affidavit of Shri Arya, that certain claims made by the appellant towards leave encash-

ment, efficiency bar arrears and proforma promotion arrears were due to the appellant and after calculating the same, were paid to the appellant by means of different cheques in this court. A total amount of Rs. 19, 551 has been paid to the appellant during the pendency of the proceedings in this Court towards the claims made by the appellant for leave encashment (Rs. 9059) increment arrears as crossing efficiency bar (Rs. 4499), proforma promotion arrears (Rs. 5993). Other claims were not admitted.

The amounts not paid to appellant admittedly fell due to him much before his retirement. The same was wrongfully withheld. It was, to say the least, improper on the part of the Union of India to plead the bar of limitation against such claims of its employees, when it had defaulted in making the payments promptly when the same fell due. It is not as if the appellant had woken up after a decade to claim his due. He had been asking the department to pay him his dues both while in service and after superannuation also but to no avail. In these circumstances it ill behoved the Union of India to plead bar of limitation against the dues of the appellant. We need say no more about it because better sense has prevailed and claim of the appellant has now been settled and payment made to him. The appellant who had served the department for almost 40 years before his superannuation was made to run from pillar to post to get his legitimate dues. It is a sad commentary of affairs. He has undoubtedly suffered a lot. Had the amount which has now been found due and paid, been paid to him at the appropriate time atleast in 1984 when he retired, the appellant would have been saved from lot of unnecessary harassment besides he would have earned interest on that amount also. He could have utilised that amount of other purposes. He was denied the same on account of the default of the department. The appellant in his reply to the statement of account filed by Shri Arya in this Court has claimed almost 18 lakhs of rupees from the department out of which more than Rs. 16 lakhs have been claimed towards interest and compensation etc.

After hearing learned counsel for the parties and discussing the matter with them and with a view to settle the equities and do justice between the parties, in the peculiar facts and circumstances of this case, we consider it appropriate to direct the respondent/Union of India to pay to the appellant a sum of Rs. two lacs (Rs. 2,00,000) towards interest, compensation, litigation expenses etc. for the amounts wrongfully withheld from the appellant for more than 12 years. This amount would be in

A addition to the claim amount already paid to the appellant amounting to Rs. 19,551 and shall be paid to the appellant in full and final settlement of all his claims within two months from today. In case the amount is not paid within two months, it shall bear interest @ 12% per annum from the date of this order till the payment is made. Keeping in view the agony through which the appellant has gone through we hope that the Union of India shall not cause delay in making payment to the appellant. We set aside the order of the Tribunal dated 4th March, 1993 and dispose of the appeal in the above terms.

T.N.A.

Appeal disposed of.