

(10)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. NO. 615/2002

NEW DELHI THIS 13TH DAY OF NOVEMBER 2002

HON'BLE SHRI GOVINDAN S. TAMPI, MEMBER (AO)

Shri Rup Lal Sehdev,
S/o Late Shri Chaman Ram,
I-191, Ashok Vihar, Phase-I
Delhi - 110052

By Shri M L Verma, Advocate
214, Lawyers Chambers,
High Court of Delhi,
New Delhi - 11003

.....Applicant

(By Shri M L Verma, Advocate)

VERSUS

1. Union of India, Central Ordnance Depot,
Delhi Cantt.,
New Delhi through
the Secretary, Ministry of Defence,
New Delhi -110010

.....Respondent

(Shri Vivek proxy for
Shri R.V. Sinha, Advocate)

O R D E R (ORAL)

BY HON'BLE SHRI GOVINDAN S. TAMPI, MEMBER (A)

Grant of pro rata pensionary benefits for the period
11.11.1944 to 5.6.1961 with 18% interest and cost for the
OA are the reliefs sought for in this O.A.

2. Heard S/Shri M L Verma and R N Singh learned
counsel for the applicant and respondents respectively.

3. The applicant who was appointed as a Civilian
ETE, Leading Hand (non technical) in the Central Ordnance
Depot (COD) New Delhi, became Quasi Permanent in the post
on 1.8.1952 and was redesignated as ^{Storeman} ~~Storeman~~ on 01.9.1953.
He was promoted substantively w.e.f. 1.4.1959 under order
dated 21.7.1962 about which he was informed on 14.3.98. He

-2

-2-

was deputed and transferred in public interest to Bhilai Steel Plant, ^{A.P.S.U.} The applicant and the Bhilai Steel Plant requested for termination of his lien from the AOC and the same was done on 21.2.1962 with effect from 5.6.1961. Thus he had put in about sixteen (16) years in the Government before his absorption in PSU. He was neither a member of CPF nor was he paid any amounts by the COD in this regard. Nor any terminal or retiral benefits given to him. His request for providing the service records was not heeded. The applicant's case for payment of pensionary benefits were rejected on 4.12.1997 on the ground that he was not permanent. the applicant had made a large number of representations in this regard but the same were of no avail, leading to this OA.

4. The grounds raised in this OA are that:

- a) the applicant was a Central Government Servant working against the pensionable job but his service of 16 years before his absorption in the PSU was not taken into consideration on the ground that he was only Quasi Permanent, though with effect from 1.4.59 he had been made permanent. The denial of the pensionary benefits have been on the grounds that the necessary documents have all been destroyed. The same could not be a correct reason and similarly placed individuals have been given the benefits.
- b) the rejection of the applicant's case was arbitrary ;
- c) though the respondents felt that he was only Quasi Permanent at the time of his absorption he had become a permanent officer in terms of the subsequent order of the respondents;
- d) as at the time of termination of his lien on 5.6.1961 he was regarded as only Quasi permanent and therefore terminal benefits had not been received.

In view of the above the OA should succeed, as what the applicant plead.

- 3 -

5. In the counter affidavit filed on behalf of the respondents it is pointed out that the applicant who served in AOC from 1944 to 1958 was sent on deputation to Bhilai Steel Plant on 6.8.1958 where he was permanently absorbed on 5.1.1961. Immediately where after his lien with AOC was terminated. Applicant's case for grant of pro rata pension was taken up when he was found that concerned documents have been destroyed. The papers filed by him cannot be examined by CDA(P) but the same was negatived. However, finding that w.e.f. 1.4.1959 he had been confirmed, the issue was taken up but the absence of records has made it difficult ^{to ascertain} whether he was a subscriber to CPF or GPF. In the absence thereof his request for pro rata pension could not have been granted. It is indicated that all the relevant documents have been destroyed and the respondents are therefore, had difficulty to work out the details. His case for pro rata pension has been rejected both by CDA (P) and the Army Headquarters. As his lien was terminated following his absorption in Bhilai Steel Plant it is wrong to state that he was with AOC till 1961. As the applicant had not received pro rata pensionary benefits no terminal benefits at the time of absorption were paid and the same had not been credited into GPF accounts, the applicant's has no case. The grounds raised by the applicant are also not tenable. Shri R N Singh learned counsel appearing for the respondent strongly pleads that applicant has no case and the same cannot be considered.

6. I have carefully considered the matter. The facts are not disputed. The applicant who was working in COD under AOC from 1944 to 1958 is found to have joined Bhilai Steel Plant on deputation in 1958 where he was absorbed on 5.1.61. Immediately thereafter the applicant's

--- 4/---

(13) CA 6/5/1012

-4-
-8-

lien has been terminated. At the time he was only a Quasi permanent Storekeeper though his substantive appointment in that capacity ^{was given} w.e.f 1.4.1959, about which he was informed only on 14.3.1998. He had not received any benefits at the time of his departure from COD, still his claim for pro rata benefits had not been accepted, and in fact, been rejected by the respondents letter dated 20.9.2001. This is based on the decision of the OM dated 3.1.1995 dealing with the entitlement to pro rata pensionary benefits of Government servants transferred on permanent basis but Companies / Corporation etc. permit the grant of such pension subject to the following conditions:

i) The absorbee should satisfy all the terms and conditions regarding grant of retirement benefits as laid down in the Ministry of Finance, Department of Expenditure OM dated 16.6.1967 as amended vide OM No. 14(c)/E.V.VI dated 19.6.1992. The question of proportionate pension will not arise in cases where an officer, at the time of absorption, had rendered less than 10 years of service under Government and was not entitled to pension. In such cases he shall be only eligible to proportionate service gratuity in lieu of pension and to DCR Gratuity based on the length of service.

ii) The absorbee should have proceeded to Central PSU in public interest and absorbed therein prior to 16.6.1967.

iii) The absorbee should have received the retirement benefits as per Ministry of Finance, Department of Expenditure OM No. F.2(33)/EVA/60 dated 10th December 1960 viz an amount equal to what Government would have contributed had the officer been on Contributory Provident Fund terms under Government, together with simple interest thereon at 2% for the period of his pensionable service under Government, should have been credited to his Contributory Provident Fund Account with the PSU as an opening balance within one year from the date of his/her permanent absorption.

4. Ministry of finance, etc. are requested to settle the claims of the Central Government Employees who were permanently absorbed in the Central PSUs prior to 16.6.1967 on the above basis, on receipt of a formal request from each such

14

-4-5-

employee. CPF benefits received in terms of Ministry of Finance OM dated 10.11.1960 will have to be refunded by the said employees to Government together with interest at the rate applicable to GPF accumulations on the date of such refund and calculated in the same manner as interest on GPF is worked out.

Sd/ SWARN DASS
Deputy Secretary to the Govt. of India."

7. It is not disputed that the applicant's absorption in the PSU had taken place before 16.6.1967 as the transfer was in public interest. The applicant also had not received any CPF or other benefits at the time of his departure from the Government to PSU. He was also not granted any retirement benefits as he was treated as Quasi Permanent at the time of his absorption. His substantive promotion in the Govt. job came about w.e.f. from 1959 i.e. before his absorption in the PSU but he was intimated about it only in 1998. In these circumstances the denial of pro rata pensionary benefits for the period from 11.11.1944 to 5.6.1961 when he was serving the Government could not have been denied. The respondent would have been correct if the fact of his promotion was intimated long back in which case the pensionary benefits/CPF etc. would have been credited to the PSU. This has not happened. Respondents' delay in this regard or the destruction of the records would not justify their action in denying the retiral benefits. There is no reason for turning down the applicant's request for grant of pro rata pensionary benefits. Being a senior citizen who has been made to rush from pillar to post for getting his dues settled the applicant is also entitled for being granted some interest.

--6

CA 615/2002

-68-

9. In the above view of the matter OA succeeds and is accordingly allowed. The respondents are directed to extend to the applicant his pro rata pensionary benefits for the period from 11/11/1944 to 5/6/1961 with consequential benefits. He is also entitled for receiving simple interest on the said payment due @8% per annum from the date on which they became due to the date of actual payment made. No costs.

(Govindan S. Tamoi)
Member (A)

Patwal/