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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 2362/2002

New Delhi, this the 13th day of March, 2003

Hon'ble Sh. Shanker Raju, Member (J)

Smt. Neeru Midha
W/o Sh. J.K. Midha
C-68, Minto Road Complex
Minto Road, New Delhi.

...Applicant

(By Advocate Sh. S.M. Ratanpal)

V E R S U S

Union of India : through

1. The Secretary
Ministry of Water Resources
Shram Shakti Bhawan
New Delhi.
2. The Secretary
Ministry of Personnel,
Public Grievances & Pensions
North Block, New Delhi.
3. The Chairman
Central Water Commission
Sewa Bhawan, R.K. Puram
New Delhi.

...Respondents

(By Advocate Sh. D.S. Mahendru)

O R D E R (ORAL)

By Sh. Shanker Raju,

Through this OA, applicant impugns the respondents' action whereby his request for accord of pro-rata pension and other benefits has been turned down on the ground that the applicant has not completed 10 years of qualifying service and had put in only 9 years 9 months & 10 days service. It is also stated that as per Rule 49 (2) (b), applicant was not a permanent Govt. servant at the time of absorption in NTPC, as such pro-rata pension is not permissible. Shri Ratanpal, ld. counsel contended that the applicant is identically situated with one Smt. Uma Arora in whose case, this Tribunal had

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allowed her claim for accord of pro-rata pension by an order dated 13-2-2002 in OA 2125/2001. By drawing my attention towards date of absorption, it is contended that the applicant was absorbed in NTPC along with Smt. Uma Arora.

2. Referring to Rule 49 (3) of CCS (Pension) Rules as well as D.O. No. 28 (15)/83-PU dated 13-10-1983, Govt. of India decision, it is stated that period of 9 months would be treated as two half years. In this view of the matter, it is stated that the applicant who has completed 10 years is entitled for pro-rata pension.

3. Sh. D.S. Mahendru, ld. counsel vehemently opposed the above contentions and stated that the applicant who has not completed 10 years and was not permanent, as per Rule 49 (3), he is not entitled for the said benefit.

4. I have carefully considered the rival contentions and perused the material on record.

5. Nothing on record has been brought to establish that the case of the applicant is different from Smt. Uma Arora which has been allowed by this Tribunal placing reliance on Rule 49 (3) by directing to treat the 9 years 9 months and 10 days service as 10 years. Accordingly the benefit has been disbursed to Smt. Uma Arora, as the applicant in all fours covered by this decision and is identically situated,

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he cannot be meted out different treatment which would be in violation of principle of equality under Article 14 & 16 of the Constitution of India.

6. For the reasons recorded above, OA is allowed. Impugned order is quashed and set aside. Respondents are directed to accord to the applicant benefit of pro-rata pension and other pensionary benefits in accordance with rules with all consequential benefits with a simple interest of @ 12 % within two months from the date of receipt of a copy of this order.

S. Raju

(SHANKER RAJU)
MEMBER (J)

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