

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No.2846 of 2002

New Delhi, this the ~~14~~ day of August, 2005

HON BLE MR.KULDIP SINGH.MEMBER(JUDGE)

Shri Gurdas Ram Jakkhi  
S/o Late Shri Banna Ram  
R/o 18-C Pocket III Phase-II  
Mayur Vihar, Delhi-110091.

...Applicant

(Applicant in person)

Versus

1. Office of the Chief Controller of Accounts,  
Ministry of Commerce,  
Respondent No.1,  
Department of Supply,  
Akbar Road,  
New Delhi.
2. Ministry of Agriculture (Estt.III Section)  
Krishi Bhawan,  
New Delhi.
3. The Ministry of Pension & Public  
Grievances,  
Lok Nayak Bhawan,  
Sujan Singh Park,  
New Delhi.

...Respondents

(By Advocate: None)

ORDER

This OA has been filed under section 19 of the Administrative Tribunal's Act against the Act of the respondent omitting to follow the decision of the Ministry of Agriculture New Delhi dated 4.6.75 and 29.4.76 to rectify the wrongs done by not examining the case as per the standing instructions contained in CCS (Pension) Rules 1972 and misrepresenting and misleading the administrative authority about the facts of the case for the grant of pension and death-cum-retirement gratuity in respect of the 14 years permanent Government service rendered by the applicant in the Central Government.

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2. The facts, in brief are that the applicant was appointed as Lower Division Clerk in the Ministry of Agriculture on 10.8.1955 and held the post of LDC in permanent capacity.

3. The applicant applied for the post of UDC through proper channel in the office of the Chief Controller of Accounts (Supply), Akbar Road, New Delhi and was appointed as UDC on 30.09.1964 against the permanent post and remained in this office till 14.8.1969 (FN).

4. The applicant was permitted by the office of the Chief Controller of Accounts (Ministry of Supply) to register his name with employment exchange for higher post vide No Objection Certificate issued under letter No. PAO dated 16.2.67. Thereafter the Employment Exchange sponsored applicant's name to the Central Warehousing Corporation for the post of Assistant and thus he was appointed and joined as Assistant in the Central Warehousing Corporation against the permanent post. It is further submitted that applicant had rendered 14 years of service in the Central Government for which he had been requesting for grant of pension benefit etc. The applicant was relieved by the CCS (Supply) New Delhi on 14.8.69 and joined CWC same day, i.e., 14.8.69 and on satisfactory completion of probation period was made regular in CWC in 1970. Thus the contention that the applicant was direct recruit of Advertised Post is false and totally wrong and is contested.

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5. In terms of the Government of India Cabinet Secretariat, Department of Personnel OM dated 21.4.72 the employee holding permanent post and rendered 10 years or more than that is entitled for pension benefit. Accordingly, the applicant on 5.5.73 applied for retirement benefit in respect of the permanent service rendered under the Central Government, i.e., from Ministry of Agricultural from 10.8.1955 to 30.9.64 and in the office of Chief Controller of Accounts from 30.9.64 to 14.8.69.

6. It is also submitted that he was sanction GPF Account Number and was also allotted CPF Account 1190776 Ledger Folio No.G-10.

7. It is also submitted that Pay and Accounts Officer, Ministry of Supply vide their letter dated 4.6.1975 informed that the applicant is entitled for pensionary benefits in accordance with Article 418 (b) of Civil Service Regulations and Rule 37 of the CCS (Pension) Rules, 1972.

8. It is also submitted that after perusing his case for 30 years the applicant was finally informed on 31.7.2001 vide letter dated 31.7.2001 and 15.5.2002 that the applicant's case has been examined again reiterated that it is not found possible to accede to this request for pro-rata retirement benefit.

9. In the grounds to challenge the same that the applicant's case is also a case of misfeasance and the physical and mental harassment and financial damages

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occurred to the applicant are due to utter negligence of the management and the admissible benefits may please be released with 18% interest as the case has been dealt with indiscreetly and with mala fide intentions as the applicant during the last 30 years had incurred more than Rs.80,000/- for chasing up this case.

10. In the OA the applicant has prayed for the following reliefs:-

(i) To allow this OA with cost.

(ii) To direct the respondent to correct the erroneous actions and grant pension and DCR gratuity and issue Pension Payment Orders forth with as this is a 30 years old case.

(iii) To direct the respondents to pay retirement benefits with 18% interest including arrears as well as consequential benefit as the delay occurred is due to misrepresentation/manipulation of the facts and also not interpreting the Government orders in right perspective is at the instance of the respondent Nos. 1 and 3 though respondent No.2 had already conveyed the final decision taken in consultation with the Department of Pension and Public Grievances as early as on 4.6.1975.

(iv) Respondent No.1 may be directed to prepare the Pension Payment Order in respect of the Pension and DCR Gratuity case of the applicant on the basis of the cases already finalised in respect of the employees of the office of the Chief Controller of

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Accounts, Ministry of Supply, Akbar Road, New Delhi who were on deputation or on foreign service terms but their service records misplaced/lost in the office of the Chief Controller of Accounts (Supply), Akbar Road, New Delhi.

11. I have heard the learned counsel for the applicant and gone through the records of the case.

12. I may mention that respondents vide their letter dated 4.6.1975 mentioned that the lien of Sri Gurdas Ram (applicant) in the post of LDC in this Department was, therefore, terminated although he is entitled to the benefit of his past service in accordance with the provisions of Article 418(b) of CSR as such he is entitled to pension.

13. I may further mention that in the letter dated 15.5.2002 the respondents had written a letter to the applicant mentioning that since he was not holding a permanent post and not holding lien against any post under the Central Government at the time of absorption in the Public Sector Undertaking so he is not entitled to pro-rata pensionary benefits.

14. The learned counsel for the applicant has relied upon a judgment given in OA 2445/2002 in the case of Baldev Verma Vs. U.O.I. & Others wherein also the similar issue was decided. The court while allowing the OA had relied upon the judgment given by the Hon'ble Supreme Court in the case of T.S. Thiruvengada Vs.

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Secretary to the Government of India, Ministry of Finance, Department of Expenditure reported in 1993 (24 SCC 174.

15. The only question which has to be decided is whether the applicant has rendered less or more than 10 years of service with the Central Government before getting absorbed in PSU. I may mention here that the applicant had worked as a Central Government employee w.e.f. 10.8.1955 to 30.9.64 and in the office of the Chief Controller of Accounts from 30.9.64 to 14.8.69 as such he has rendered more than 14 years and ultimately he was absorbed in Central Warehousing Corporation vide letter dated 12.8.70, as such he is entitled to pro-rata pension and other benefits in view of the Circular of the Government of India dated 3.1.1995 wherein the judgment referred to by the applicant in the case of I.S. Thiruvangadam (Supra) has been referred to. The question with regard to the status of applicant whether he is permanent or temporary or quasi permanent cannot come in the way of the applicant as the applicant had worked for quite a long period against a substantive post. So on this ground the applicant cannot be denied the benefit of grant of pro-rata pension. In this regard I may also refer to an earlier judgment of the Tribunal in OA 699/2000 K.C. Rastogi Vs. U.O.I. which also relied upon the judgment of the Apex Court in the case of Praduman Kumar Jain (Supra) and in the case of S.K. Bedi Vs. U.O.I. (1A 25/88) wherein also a similar situation was there as employee was working as Mechanical Instructor in the Central Power and Water Commission (CPWC) and ultimately it was taken over by the Baira Sial

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Hydro-Electric Project where he got absorbed. In that case the OA was allowed and respondents were directed to grant pension and other retiral benefits for the services rendered by him with the Government of India.

16. Hence, I am of the considered view that the OA has to be allowed and applicant is entitled to pro-rata pension.

17. In view of the above, OA is allowed and respondents are directed to grant pro-rata pension and other benefits to the applicant for the period of service rendered in the government departments from 10.8.55 to 14.8.69 within a period of 4 months from the date of receipt of a copy of this order. No costs.

  
( KULDIP SINGH )  
MEMBER (J)

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