

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH**

TA No. 44 of 2015

Present: Hon'ble Mr. Gokul Chandra Pati, Member (A)

Debananda Mohanta, aged about 59 years, S/o Late Manas Mohanta, at present residing at Rourkela Sector 20 D/150, Dist.- Sundargarh.

.....Applicant

VERSUS

1. Rourkela Steel Plant, represented through its Managing Director, At/PO-Rourkela, Dist.-Sundargarh.
2. Chief Personnel Manager (Works), Rourkela Steel Plant, Rourkela, At/PO-Rourkela, Dist.- Sundargarh.
3. Deputy General Manager, Coke Oven Department (Operation), Rourkela Steel Plant, Rourkela, At/PO-Rourkela, Dist.- Sundargarh.

.....Respondents.

For the applicant : None

For the respondents: Mr.H.M.Dhal, counsel

Heard & reserved on : 17.1.2020

Order on : 28.1.2020

O R D E R

Per Mr. Gokul Chandra Pati, Member (A)

The applicant has filed OJC No. 20678 of 2009 before Hon'ble High Court and by order dated 4.12.2015 of Hon'ble High Court it was transferred to this Tribunal and registered as TA No. 44 of 2015. The TA has been filed by the applicant with the following reliefs :

- “(i) direct/order the Opp. Parties to give benefit of service to the petitioner w.e.f. 5.9.1973 instead of 01.02.1987 for retirement benefits.
- (ii) pass such other order(s)/direction(s) as may be deemed fit and proper in the bonafide interest of justice;
And for which act of kindness, the petitioner as in duty bound, shall every pray.”

2. The applicant initially joined service under the respondents Rourkela Steel Plant on 3.9.1973 as Khalasi. He had remained under unauthorized absence from 23.4.1986 to 29.5.1986 for which the service of the applicant was terminated vide order dated 29.5.1986 (Annexure-1 of the TA). Then he was appointed afresh vide order dated 2.1.1987 as a Khalasi (Annexure-2). He is aggrieved since the respondents are not allowing his past service for the purpose of the retirement benefit and are treating his appointment from 2.1.1987 as fresh appointment. The applicant raised a dispute under the

Industrial Dispute Act, 1947 and vide order of the Government dated 1.1.1994 (Annexure-4) it was decided that there is no case for reference for the dispute for adjudication. Thereafter, the applicant filed the Writ Petition before Hon'ble High Court for restoration of his seniority and salary. The said petition was disposed of directing the respondents to consider the applicant's representation. Accordingly, the respondent No.2 considered the representation and passed the order dated 31.1.1997 rejecting the representation of the applicant.

3. The case of the applicant is that without any notice and opportunity of hearing, his service was terminated on 29.5.1986 (Annexure-1). Hence, his past service should have been taken into account for retirement benefits.

4. Respondents have filed Counter stating inter alia as under :

“4.1 The petitioner joined Rourkela Steel Plant on 3.09.1973 as Khalasi in Training Department and subsequently transferred to Traffic and Raw Material Department. He was granted leave from 14.4.1986 to 23.4.1986. He neither reported for duty on 24.4.1986 nor any intimation was received from him in the matter of his absence for more than 30 days beyond the leave granted to him. As such, it was presumed that the petitioner voluntarily abandoned his services with the opp.party company. His name was, therefore struck off from the rolls of the company w.e.f. 24.4.1986 vide order dtd. 29.5.1986 in accordance with the certified standing orders of the company (Annexure-1 to the writ petition).

4.2 The petitioner submitted an appeal on 12.06.1986 requesting the opp.party to consider his case for reappointment on sympathetic ground. Considering his appeal, the opp.party management issued offer of reappointment on sympathetic consideration after complying necessary procedure and formality. The petitioner accepted the terms and conditions of the offer of appointment dtd. 2.1.1987 without any demur and joined the services of the company.”

5. No Rejoinder has been filed by the applicant.

6. When the matter was listed for hearing on 17.1.2020, as no one appeared on behalf of the applicant and the dispute was very old, it was decided to proceed ex parte against the applicant and proceed with the matter based on the materials available on record as per rule 15 of the CAT (Procedure) Rules, 1987.

7. Heard learned counsel for the respondents who reiterated the respondents' stand as per the Counter. It was submitted that as explained in the Counter, the applicant accepted the fresh appointment by order dated 2.1.1987 without raising any dispute and the order to terminate his service for voluntary abandonment was not challenged by the applicant.

8. With due consideration of the pleadings of both the parties, it is seen that the applicant has not challenged the order to terminate his service vide order dated 29.5.1986 (Annexure-1 of the TA) as per provisions of law. As stated in the Counter, on his appeal dated 12.6.1986 (Annexure A/1 of the

Counter) for re-appointment, he was given fresh appointment vide order dated 2.1.1987 (Annexure -2 of the TA). Such a fresh appointment was accepted by the applicant and subsequently he raised a dispute under the Industrial Dispute Act, 1947 in which Government of Odisha, vide order dated 5.4.2007 (Annexure -8 series), decided that there is no case for reference the dispute for adjudication. There is nothing on record to show that the applicant has challenged that order dated 5.4.2007 of Government of Odisha in any appropriate forum. The writ petition was moved by the applicant before Hon'ble High Court for the benefit of his past service. The respondents were directed by Hon'ble High Court to consider the applicant's case and in compliance, the respondent No.2 passed the order dated 31.1.1997 (Annexure-6 of the TA), rejecting the case of the applicant.

9. The order dated 31.1.1997 has been accepted by the applicant as there is nothing on record to show that the said order has been challenged before appropriate forum as per the provisions of law till OJC No. 20678/2009 (this TA) was filed before Hon'ble High Court without impugning the order dated 31.1.1997. When the decision as per the order dated 31.1.1997 has been accepted by the applicant, claiming the benefit of past services for the purpose of retirement benefit is not tenable. Further, no rule or policy provision has been furnished by the applicant under which the present claim of the applicant is sustainable.

10. In view of the discussions above, the TA lacks merit and is liable to be dismissed. Accordingly, this TA is dismissed. There will be no order as to costs.

(GOKUL CHANDRA PATI)
MEMBER (A)

I.Nath

