

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA

No. O.A. 1023 of 2016

Date of order: 6.12.2019

Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

Sri Subrata Sarkar,
Son of Late Sudhangsu Kumar Sarkar,
Aged about 79 years,
Worked as STA/OFB,
Residing at 174/1/5,
N.S.C Bose Road,
Kolkata - 700 040.

..... Applicant.

Versus

1. Union of India
through The Secretary,
Ministry of Defence,
Ordinance Factory Board,
New Delhi - 110 011.
2. The Director General,
Ordinance Factory Board,
Ayudh Bhavan,
10-A Shaheed Khudiram Bose Road,
Kolkata - 700 001.
3. The Principal Controller
of Defence Accounts/Pension,
GI/Civil, Computer Centre,
Draupadighat,
Allahabad - 211 014.
4. The Sr. A.O (P),
Office of Principal Controller
of Defence Accounts (Pension),
Draupadighat,
Allahabad - 211 014

..... Respondents

For the Applicant : Ms. T. Das, Counsel
Mr. S.P. Kar, Counsel



For the Respondents : Ms. D. Nag, Counsel

ORDER (Oral)

Per Dr. Nandita Chatterjee, Administrative Member:

The applicant has approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985 praying for the following relief:-

- "i) An order do issue quashing the order dated 21.09.2015 of Sr. A.O. (P).
- ii) An order do issue directing the respondent Authority to re-assess/ revise pension of the applicant by adding the period spent on training and consequential benefits thereon.
- iii) An order do issue quashing the office order dated 2.7.2013 issued by A.O. (P).
- iv) And to pass such other order or orders and direction or direction as your Lordship think fit and proper."

2. Heard rival contentions of both Ld. Counsel, examined pleadings and documents on record.

3. The submissions of the applicant, as advocated through his Ld. Counsel is that the applicant had undergone three years Metallurgical Engineering Apprenticeship course at Metal and Steel Factory, Ichapore, 24 Parganas from 1957, and, after completion of three years training period in 1960, he was absorbed into service in the same factory, and, that, after completion of 20 years of service, he voluntarily retired from STA w.e.f. 31.5.1980.

That, on 5.7.1988, an Office Memorandum was issued (Annexure A8 to the O.A.) which stated that departmental training period prior to regular employment would be treated as qualifying service for pensionary benefits. The applicant, accordingly, represented to count his qualifying service period as 23 years instead of 20 years of service claiming that his period of apprenticeship should be counted as qualifying service for the purpose of pensionary benefits.

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That, on 2.7.2013, the applicant received an Office Order, which rejected his claim stating that the benefits so claimed, could not be extended to such officials, who had retired before 22.12.1983 and hence was denied to the applicant, who had voluntarily retired on 31.5.1980. The applicant, subsequently, preferred an appeal, but, the authority concerned rejected his appeal vide his Office Order dated 21.9.2015.

Hence, being aggrieved, the applicant approached this Tribunal praying for the abovenoted relief.

4. The respondents would primarily dispute the claim of the applicants on the basis of DOP&T's O.M. (annexed as R-2 to their reply) which states as follows:-

"(1) Pre-appointment training period counts as qualifying service. - The Staff Side to the National Council (JCM) had suggested *inter alia* that the service rendered by an employee during the training period before his regular appointment to the grade may be treated as qualifying service for pension.

2. The request made by the Staff Side of the National Council (JCM) has been examined and it has now been decided that in respect of Groups 'C' and 'D' employees, who are required to undergo departmental training relating to jobs before they are put on regular employment, training period may be treated as qualifying service for pension, if the training is followed immediately by an appointment. This benefit will be admissible to all Groups 'C' and 'D' employees even if the officers concerned are not given the scale of pay of the post but only a nominal allowance.

3. The Ministry of Finance, etc., are requested to bring the above decision to the notice of all officers working under them including those in the attached and subordinate offices for their guidance.

4. These orders come into force with effect from 22nd December, 1983.

5. Benefit of these orders will be available to all those employees who retired on or after 22nd December, 1983.

6. No restriction is imposed on the admissibility of the above benefit to the employees who were recruited in 'C' and 'D' posts but retired from Groups 'A' and 'B' posts.

[G.I., Dept. of Per. & A.R., O.M. No. 28/32/81-Pension Unit, dated the 22nd December, 1983 ; Dept. of P. & P.W., O.M. No. 28/37/86-P. & P.W., dated the 12th September, 1986, deleting the words 'up to one year', dated the 6th June, 1989]."

5. During hearing, the Ld. Counsel for the respondents would further fortify her argument by furnishing Rule 22 of the CCS (Pension) Rules, 1972, which states as follows:-

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"22. Counting of periods spent on training

The Government may, by order, decide whether the time spent by a Government servant under training immediately before appointment in service under that Government shall count as qualifying service.

GOVERNMENT OF INDIA'S DECISIONS

(1) **Pre-appointment training period counts as qualifying service.** - The Staff Side to the National Council (JCM) had suggested *inter alia* that the service rendered by an employee during the training period before his regular appointment to the grade may be treated as qualifying service for pension.

2. The request made by the Staff Side of the National Council (JCM) has been examined and it has now been decided that in respect of Groups 'C' and 'D' employees, who are required to undergo departmental training relating to jobs before they are put on regular employment, training period may be treated as qualifying service for pension, if the training is followed immediately by an appointment. This benefit will be admissible to all Groups 'C' and 'D' employees even if the officers concerned are not given the scale of pay of the post but only a nominal allowance.

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6. Upon query, Ld. Counsel for the applicant volunteered that the applicant would try to ascertain if there are any further decisions of the Government of India that overrules the date of effect of Rule 22 of the CCS (Pension) Rules, 1972 as from 22nd December, 1983.

7. Accordingly, we would accord the applicant liberty to prefer a further comprehensive representation to the respondent authorities citing Office Memorandum in his support and, particularly, those which establish that incumbents who had retired before 22.12.1983 are also entitled for counting of their training period as a qualifying service for

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pension, within a period of four weeks from the date of receipt of a copy of this order.

8. In the event such representation is received, the competent respondent authority shall examine the contentions, in accordance with law and convey his decision in the form of reasoned and speaking order within a further period of six weeks thereafter. Resultant benefits, if any applicable, may be disbursed to the applicant, within a further period of six weeks from the date of the decision.

9. It is stated here that we have not entered into the merits of the matter and the respondent authorities are at liberty to decide on the issues raised by the applicant in his representation.

10. With these directions, the O.A. is disposed of.

Parties will bear their own costs.



(Dr. Nandita Chatterjee)
Administrative Member



(Bidisha Banerjee)
Judicial Member

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