



Central Administrative Tribunal
Principal Bench, New Delhi

OA No.3693/2014

Reserved on: 28.01.2020
Pronounced on: 06.02.2020

Hon'ble Ms. Aradhana Johri, Member (A)

Sh. Balwant Singh
S/o Late Sh. Trilok Singh,
R/o 1035, N. Sierra Bonita AVE#8
West Hollywood, USA,
Also at RETIRAL
1 J/89, NIT, Faridabad.
Aged about 76 years.

...Applicant

(By Advocate: Sh. Keshav Rai)

Versus

1. Union of India through
Defence Secretary,
Ministry of Defence,
Sena Bhawan, New Delhi.
2. Joint Secretary and CAO,
Through Sr. Administrative Officer,
Ministry of Defence,
Government of India,
E Block, Dalhousie Road,
New Delhi – 110 011.

...Respondents

(By Advocate: Sh. Rajnish Prasad)

ORDER

The applicant Balwant Singh was Lower Division Clerk [hereinafter referred to as LDC] in the office of District Rent and Managing Officer, Ministry of Rehabilitation w.e.f. 09.02.1959 to 29.02.1960. Thereafter he joined as Ty. LDC in HQ 26 Inf. Div. w.e.f. 08.06.1960 till 06.12.1960 and subsequently served AFHQ under the Ministry of Defence w.e.f. 08.12.1960 till 03.04.1968. He

was given the benefit of service rendered in AFHQ from 08.06.1960 to 06.12.1960 and also break in service of one day of 07.12.1960 was condoned. He then served as Steno Typist in Instrumentation Limited, Kota w.e.f. 04.04.1968 to 21.11.1989. He was paid Rs.524/- as service gratuity by way of terminal benefits.

2. The applicant has prayed for the following reliefs:-

- “a). To quash and set aside impugned order dated 26/10/2013, as passed by respondent no.2 vide which claim of the applicants regarding retirement/pension benefits and consequential relief has been rejected.*
- b). To direct the respondent no.2 to give the details of calculation of gratuity of Rs.524/-paid to the applicant and also give enhanced gratuity in view of decrease in monetary value.*
- c). To re-calculate the gratuity and other benefits for services rendered by the petitioner for ministry of defence, for the period from 09.02.1959 to 04.04.1969 i.e. more than 10 years and provide the details of calculation to the applicant, and also pay the applicant if any, amount is pending due to the applicant.*
- d). To give interest on due amount of gratuity and other retirement benefits to the applicant for the period from 09.02.1959 to 04.04.1969 up to date.*
- e) To direct the respondent to grant, release all the retirement/pension benefits and consequential benefits/reliefs for which the applicant is entitled in view of the factum of completing the qualifying period of service of more than 10 years, with Ministry of Defence, along with interest @ 24% per annum from the date of retirement.*
- f). To direct the respondents to act expeditiously keeping in view of the old age of applicant as the applicant is almost on his death bed aged about 76 years.*
- g). To pass any further other order(s), instruction(s) and direction(s) as this Hon’ble Court may deem fit be passed in favour of the applicant and against the respondents in the interest of justice.”*

3. It is the contention of the applicant that he was the permanent employee of Ministry of Defence and served the Government for more than ten years. Therefore, he is entitled to enhanced gratuity and other retirement/pensionary benefits. He has prayed that the same be released along with interest.

4. The respondents have denied the claim of the applicant. They have stated that first of all the claim of the applicant is severely time barred. Replies had been given to him long back but he kept on representing and ultimately sent an application to the Prime Minister's office after which order dated 26.10.2013 was issued by Ministry of Defence intimating to him that he was only eligible for terminal gratuity which has already been paid and no other dues were payable to him.

5. The respondents have also stated that there was break in service from 29.02.1960 after he left the Ministry of Rehabilitation till 08.06.1960 when he joined Ministry of Defence. However, one day's break in service of 07.12.1960 was condoned. They have stated that earlier no service records of the applicant pertaining to the period from 1960 to 1968 were available but subsequently they were found. They have also filed copy of his service book at Annexure R-16.3 in support of their contention.

6. Heard Sh. Keshav Rai, learned counsel for the applicant and Sh. Rajnish Prasad, learned counsel for the respondents.

7. A perusal of records reveals that the applicant was no longer in service of Government of India after 1968. This matter is more than 50 years old and is hopelessly barred by time. Order dated 26.10.2013 appears to have been issued after exchange of correspondence in the past whereupon the request of the applicant was not acceded to. Ministry of Defence had already issued orders on 29.10.1996 (Annexure R-13) holding that the applicant had not completed 10 years service and that he was not entitled to any further payments beyond what had already been done. The applicant has not challenged this order. The order of 26.10.2013 has been issued only after the applicant kept representing and reference was sent to Prime Minister's office. It also refers to rejection orders of 26.10.2013. It is well settled law that filing of repeated representations does not extend the period of limitation to agitate stalled matters. The applicant has also not made any request to condone the delay nor has any MA been filed to this effect by him.

8. On merits of the case, it is seen that in this OA the point in dispute is one of fact and not of law as to whether the applicant has completed 10 years of service with the

Government and would, therefore, be entitled to pension and other benefits. Though the applicant has stated that he was a permanent employee of Ministry of Defence from 05.02.1959 to 04.04.1969 but he has not filed any paper in support of his contention. All that he has filed is a Discharge Certificate from Ministry of Rehabilitation (Annexure-D) which certifies the period from 09.02.1959 to 29.02.1960. He has also filed a Certificate from Instrumentation Limited, Kota certifying the service period from 04.04.1968 to 21.11.1989 (Annexure F). However, this Certificate has no relevance since the service of Instrumentation Limited is not government service. Nowhere has the applicant filed any proof of service for the period from 01.03.1960 to 06.06.1960.

9. The respondents have filed a copy of applicant's service book in support of their contention from which it is clear that the period from 01.03.1960 to 06.06.1960 is neither covered as period of service nor has any benefit or condonation of break been given to the applicant for this period.

10. It is clear from perusal of the records and averments of both sides that there is a break in service of more than three months. Therefore, it cannot be said that the applicant has rendered ten years of continuous service with the Government and is accordingly not entitled for any

other pensionary benefits other than what he has already got by way of gratuity.

11. In view of the above discussion, this OA is dismissed being bereft of merits.

12. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

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