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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1209/2001

New Delhi, this 11th day of January, 2002

Hon'ble Shri M.P. Singh, Member(A)

Chander Datta Sharma  
1/10, Mohalla Bark  
Faridabad Old, Haryana .. Applicant

(By Shri Shukla, Advocate)

VERSUS

1. Director of Education  
Govt. of NCT of Delhi, Delhi
2. Dy. Director of Education  
Distt. Central, Bela Road  
Daryaganj, New Delhi
3. Dy. Controller of Accounts  
GPF, Old Sect., Delhi
4. Dy. Educational Officer  
Zone 28, Dt. Central  
Daryaganj, New Delhi .. Respondents

(By Shri George Parackane, Advocate)

ORDER

Heard the learned counsel for the parties and perused the records.

2. The applicant who had sought voluntary retirement w.e.f. 5.2.1982 (when this Tribunal was not in existence) while working as Headmaster, Govt. Boys Middle School, Katra Chhajju Pandi, Distt. Central, by filing this OA on 10.5.2001, i.e. after a lapse of more than 19 years, is seeking directions to the respondents to release his pensionary benefits in accordance with CCS(Pension) Rules alongwith arrears and GPF amount lying in his credit. By letter dated 5.6.2000 issued by R-4 the applicant was asked to give certain clarifications, which the applicant has replied to on 14.6.2000. Thereafter, the applicant has sent a detailed representation followed by several reminders to the

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respondents but to of no avail. He has also served a legal notice on 7.3.2001 but without success. Hence he is before this Tribunal seeking the aforesaid directions.

3. It is the case of the respondent No.3 in his reply that the applicant had filed CWP No.664/1974 in the Delhi High Court which was dismissed. He has again filed LPA No.157/82 before the Delhi High Court which has not yet been disposed of. R-3 would further submit that the applicant did not fill up the pension papers properly. Instead of assisting the department to sort out his case, the applicant has straightaway approached this Tribunal. Legal notice sent by the applicant has been replied to on 22.5.2001 advising him to get the case file forwarded to GPF Cell for final payment. GPF final payment cases are initiated by the DDO/HOO concerned and forwarded to the GPF cell, which processes the case and issues authority to the DDO who consequently prepares a bill to be presented to the PAO concerned and draws a cheque and makes the payment. But the applicant has failed to respond to the same.

4. That apart, in the reply filed on behalf of Respondents 1,2 and 4, it is stated that the applicant has not given any specific reason for his complete silence over his representation dated 5.2.82 for a period of more than 18 years. He had not been attending the school after August, 1980 as per records available with these respondents. He had filed leave applications one after the another on medical grounds. He was directed by letter dated 25.4.81 to appear before the Staff Surgeon, Police Hospital, Delhi which he had failed to do. The applicant first requested for voluntary retirement on

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9.5.80 which was rejected by letter dated 17.9.80 as he had not completed 20 years qualifying service as required under Govt. of India Scheme for voluntary retirement, with a clarification that services rendered by the applicant prior to 26.11.63 cannot be counted. Till that time he had rendered a total service of 16 years, 10 months and 12 days, considering his service w.e.f. 27.11.63 to 9.8.80 in MCD and Dte. of Education. The applicant again submitted two applications on 26.10.81 and 5.2.82 for voluntary retirement, but records available at present fail to reveal the action taken on these requests. Even on 5.2.82, he was not eligible for opting voluntary retirement as he had not completed the requisite qualifying service of 20 years due to non-attending his duties since August, 1980. As a result of this he is not eligible for any retiral benefits. The applicant had never applied for counting of his past service rendered in aided schools. It is further stated by the respondents that being a very old matter, the department did its best to coordinate the things with various district/zone/schools and collected/obtained whatever records were available which show that the applicant had not rendered 20 years of service on 5.2.82, required under the rules and was not entitled for voluntary retirement as also retiral benefits. In view of this, there is no merit in the OA, it is also barred by limitation and deserves to be dismissed.

5. After hearing the counsel for the parties at length and perusing the material placed before me, I am satisfied that the present OA is hit by laches and delay inasmuch as the applicant has not come with proper explanation for the delay in filing the present OA when

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he claims to have sought voluntary retirement from 5.2.82. He has also not disputed the fact that he had not attended to his duty after August, 1980. The letter dated 25.4.81 at R-I to the reply filed by the Respondent No.1, 2 & 4 clearly show that the applicant remained on leave in the year 1981 and did not attend the school. It is also observed from letter dated 17.9.80 (R-II to the reply filed by the aforesaid respondents) that the applicant had applied for voluntary retirement vide his application dated 24.6.80 and the same had been rejected on the ground that he did not complete 20 years of service as required under the then existing rules. He failed to produce any document to substantiate that he was eligible to take voluntary retirement and the same was granted by the competent authority. It is also an admitted position that the service rendered by the applicant in aided schools prior to 26.11.63 was not counted towards qualifying service as he never applied for the same. In view of this position, the reliance placed by him on the judgements cited in his OA will not be of any assistance to him.

6. For the reasons aforementioned, present OA is dismissed being devoid of merit and hit by laches and delay. No costs.

  
(M.P. Singh)  
Member(A)

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