

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

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O.A. 1412/~~1999~~ 2001

NEW DELHI THIS 10th DAY OF ~~JUNE~~ ^{MARCH} 2002

HON'BLE SHRI GOVINDAN S. TAMPI MEMBER (A)

Smt. Trishla Rana (PGT-POL.SCIENCE) Retired,
Directorate of Education,
NCT of Delhi

R/o 29-A Pocket: A-14
Himgiri Apartments, Kalkaji Extension,
New Delhi

.....Applicant

(By Sh. K.L. Bandula, Advocate)

VERSUS

1. Lt. Governor, NCT of Delhi
Rajpur Road, Delhi
2. Secretary(Education),
NCT of Delhi
Rajpur Road, New Delhi
3. Director of Education,
NCT of Delhi, Old Secretariat,
Delhi.
4. Chief Secretary,
Government of Haryana,
Room No.47, IV Floor,
Haryana Civil Secretariat,
Chandigarh.

.....Respondents

(By Shri Ashwani Bhardwaj, Adocate,) for Sh. Rajan Sharma
& Sh. P.P. Ralhan, proxy for respondent No.4.

O R D E R (ORAL)

Counting of the service rendered by the applicant in Department of Education, Haryana, before joining Directorate of Education, GNCT before joining Directorate of Education GNCT towards pensionary purposes with all consequential benefits is the relief sought for by the applicant.

2. The applicant who joined service as a Teacher in Social Studies on 26.11.1996 under the Department of Education Haryana got herself registered with the Delhi Employment Exchange for employment as TGT, after obtaining the 'NOC' from Haryana Government. She joined Delhi Govt. service on selection on 01.11.69. The applicant also tendered technical resignation from Haryana service on 31.10.69. The applicant had felt that the benefit of the service she rendered under the State Government would be taken into consideration in the Delhi Government as well but in 1998 when her pension papers were under preparation she was asked to file additional information in respect of Haryana service. In terms of reciprocal arrangements between the Central and State Government she have been given the benefit of service but the same was denied to her on her retirement of superannuation in July 2000. As her representation against the above failure had remained undisposed she has come to the Tribunal.

3. The applicant submits that in terms of Govt of India orders issued on 7.2.86, 17.6.86, 17.10.86 and 20.3.87 the Central Government and State Government have entered into agreement to protect the service rendered by an employee consequent on his/her change of service from one Government to other Government. Govt of Haryana being one of the signatories to the agreement, her services in Haryana should have been taken into consideration by the Central Government. This was all the more necessary as she had registered herself with Delhi Employment Exchange for the post of teacher only after obtaining



NOC from the State Government . In the circumstances denial of the past service was improper , harsh and arbitrary and called for interference, prays the applicant.

4. Shri K L Bandola, learned counsel for the applicant reiterates pleas raised in the OA and specifically invited our attention to the Department of Pension and pensioners Welfare OM dated 7.2.80, as amended in this regard.

5. On behalf of Respondents No.1 to 3 it is pointed out that the request of the applicant for counting the past services of the applicant with Govt of Haryana, on her retirement from Delhi Administration was considered and the Haryana Govt was asked whether they were prepared to grant pro rata retirement benefits in respect of the applicant and whether applicant was an optee for CPF/GPF. Haryana Govt. had indicated that as the applicant had resigned before joining the Department of Education Delhi she was not entitled for any benefits of the services rendered by her with them. It is further stated that the Govt of India's order referred to by the applicant was not relevant in the case as the same pertained to the case of transfer from one Govt to another and vice-versa and not to this case where a employee resigned prior to joining her employment in other Government. The applicant case clearly was not a case transfer from one Govt. to the other but one of fresh appointment with Delhi Govt. after the applicant had severed her connections with Haryana Govt.

6. Govt of Haryana , respondent No. 4 in the case stated that the applicant resignation from their department was not a technical resignation because the applicant had herself deposited one month salary in lieu of notice for accepting the resignation. She had broken her relation with the Haryana Government and therefore her appointment by Delhi Administration was a fresh engagement and was not a continuation of the earlier posting. She was therefore not entitled to the benefits which she was claiming.

7. The pleas on behalf of respondents were forcefully reiterated by their learned counsel Sh. Ashwani Bhardwaj according to whom the applicant's case was not at all covered by the OM referred by the applicant as the two appointments were distinct from one another and one was not in continuation of the other. He also stated that the applicant have not referred to any of the orders issued by the haryana govt. in connection with the absorption of employees of their state in Central Government or autonomous bodies in other states or vice versa. OA therefore has to failo, states Sr. Bhardwaj.

8. I have carefully considered the matter. The applicant in this case seeks that the service rendered by her in the Department of Education Haryana be clubbed with the service rendered by her in the Department of Education GNCT, where from she retired, for purposes of pension. According to her as she had got herself registered with the Employment Exchange for the post of TGT in Delhi Administration , with the permission of erstwhile employers namely Govt. of

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Haryana service rendered by her should be considered alongwith the service rendered by her subsequently in Delhi. According to her, the total service should be taken as a whole for the purposes of grant of pension. And this is hotly contested by the respondents, who hold that a temporary employee, who resigns after giving due notice to take up another employment elsewhere has ~~no right~~ ^{right} to claim that her erstwhile service should be added to her subsequent service for the purpose of pension. OM No. 28(10)/84-P&PW/Vol.II dated 7.2.86, as amended thereafter is relied upon by the applicant in support of his case that reciprocal arrangements exists between State Govt and the Central Government as well as Governments on the one hand and autonomous bodies on the other exists to protect the services rendered with one for being considered in the service with the other. The relevant portion of the said OM is reproduced below:

"2. In the circumstances explained above, it was felt that reciprocal arrangements may be entered into with the various state Governments to the effect that where employees of the State Governments/State Autonomous bodies/State Statutory Bodies, have been absorbed in the Central Autonomous Bodies, they may be allowed the same benefits as have been extended to the Central Government Servants and vice versa.

3. The question of extension of various benefits like counting of service, etc. in the cases of (i) employees of the Central Government absorbed in State Autonomous Bodies, and (ii) employees of Central Autonomous Bodies absorbed in State Governments and State Autonomous Bodies and vice versa, has been considered in consultation with the State Governments. After careful consideration, the President has now been pleased to decide that these cases may be decided in accordance with the principles as laid down in the Department of Personnel and Administrative Reforms; OM No. 28.10.84-Pension Unit, dated 29.8.1984

[vide order 6(i) above]. The cases of Central Government servants appointed in State Governments and vice versa will continue to be decided as hitherto.

4. Similar orders regarding counting of service of the Central Government employees in the event of their absorption in the State Autonomous Bodies and employees of the Central Autonomous Bodies in the State Governments and State Autonomous Bodies, as well as orders regarding acceptance of pension liability, etc. in respect of Statement Government and State Autonomous Bodies, employees absorbed in Central Autonomous Bodies and employees of State Autonomous Bodies absorbed in Central Government will be issued by the respective State Governments."

The perusal of the above would make it clear that benefit of service rendered under one organisation will be available to be continued in the other. The fact however, is that such movements have to be as a transfer or by deputation followed by absorption. The same cannot be applied to cases where a temporary employee working in one organisation resigns on his own and seeks a fresh appointment elsewhere. The break in service from the first organisation in such cases shall not be a technical resignation but actual severance of ties. Therefore the service rendered in one, cannot by any stretch of arguments be continued in the subsequent organisation, which is what the applicant exactly is demanding in this OA. Merely because she had obtained the permission of the District Education officer or Dte. of Education Haryana, before registering herself with the employment exchange Delhi, does not mean that her resignation following her selection by the Delhi Administration was a technical resignation and that the service rendered by her with Delhi Government has to be treated as the continuation of her service with Haryana Government. That being the case her request

that the service rendered by her with Govt. Haryana be prefixed to the service with Delhi Government, for the purpose of pensionary benefits cannot be endorsed. In the circumstances of the case the respondents have done nothing irregular in denying her the counting of erstwhile service along with her subsequent service for the purpose of pensionary benefits. Their action being correct in law cannot at all be assailed.

9. In the above of the matter I am convinced that applicant has not made out any case for my intervention. OA therefore fails and is accordingly dismissed. No costs

(Govindan S. Tampi)
Member (A)

Patwal/