

Central Administrative Tribunal, Principal Bench
New Delhi

O.A. No.1655/2001

New Delhi this the 4th day of January 2002

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

S.S. Bawa
S/o Late Shri Bawa Atam Singh
R/o M-2776, DII, Netaji Nagar,
New Delhi

Scientist-F, Ministry of Non-Conventional
Energy Sources, Block - 14, CGO Complex,
Lodi Road, New Delhi.

... Applicant

(By Advocates : Shri C.B. Pillai)

Versus

1. Union of India
The Secretary to the Government of India,
Ministry of Non-Conventional Energy Sources,
Block-14, CGO Complex,
Lodi Road, New Delhi.
2. The Secretary to the Government of India,
Department of Pension & Pensioners' Welfare,
New Delhi.
3. The Managing Director,
Punjab Agro-Industries Corporation Ltd.,
SCO No.315-316, Sector 35, Chandigarh.

- Respondents

(By Advocate : Shri K.C.D. Gangwani for R-1 & R-2
Shri M.C. Dhingra for R-3)

ORDER (ORAL)

By filing this OA, the applicant has sought a direction to quash and set aside the order dated 10.1.2000 (Annexure A1) issued by respondent No.1 and restore the order dated 28.8.1992 (Annexure A5), for counting the applicant's service in the Punjab Agro-Industries Corporation (in short "PAIC") from 4.7.1973 as qualifying service for pension.

2. Brief facts of the case, as stated by the applicant, are that he joined PAIC, Chandigarh as Agro-

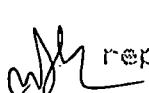
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Service Engineer on 4.7.1973. He was subsequently sent on deputation as Regional Project Officer to the then Department of Non-Conventional Energy Sources (in short "DNES"), now Ministry of Non Conventional Energy Sources (in short "MNES"), New Delhi w.e.f. 6.3.1984. The services of the applicant and other four officers of PAIC were requisitioned by the DNES/MNES without their having applied for. The applicant continued to work on deputation as Regional Project Officer, later re-designated as Principal Scientific Officer and was later absorbed in DNES/MNES from 1.3.1988. The respondent No.1 requested respondent No.3 to confirm that PAIC is a State Autonomous Body/Statutory Body to enable it to consider the case of the applicant regarding counting of his service for the purpose of pension. The respondent No.3 vide their letter dated 26.2.1988 conveyed their "No Objection" to the applicant for being absorbed on regular basis in DNES/MNES and further issued a certificate dated 14.5.1991 that the PAIC is a State Autonomous Body. The respondent No.1 asked the applicant vide their letter dated 10.9.1991 to deposit the CRF amount received from the Provident Commissioner, Chandigarh along with the interest @ 6% thereon till the date of deposit with the Central Govt. Accordingly, the applicant deposited an amount of Rs.70,243/- inclusive of interest from the date of receipt of retirement benefits from PAIC till the date of deposit in the Central Govt. account. Thereafter respondent No.1 issued order on 28.8.1992 counting the service rendered by the applicant in PAIC w.e.f.4.7.1973 as
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qualifying service for the purpose of pension and other retirement benefits in terms of the Ministry of Home Affairs O.M. dated 29.8.1984. The respondent No.1 has now informed the applicant vide O.M. dated 28.6.1999 (Annexure A8) stating that the Corporation is not an Autonomous Body but a Public Sector Undertaking which is a Registered Company under the Company's Act. In view of this position, the services rendered by him in PAIC cannot be counted and that it was proposed to cancel the order dated 28.8.1992 and to refund the amount deposited by the applicant in the Government Treasury for getting his former service counted. The applicant submitted a representation dated 28.7.1999 against the proposed action. However, respondent No.1 vide their letter dated 10.1.2000 rejected the representation and also cancelled the earlier order 28.8.1992. The applicant is due to retire on superannuation in July 2002 and at the fag end of his service this decision of respondent No.1 has resulted in an irreparable damage to his service interest. Aggrieved by this, he has filed this OA claiming the aforesaid relief.

3. Respondent No.1 in their reply have stated that the case of the applicant was reopened because one Shri S.S. Bedi, who had also served in PAIC has also requested to count his previous service as qualifying service for the purpose of pension etc. Respondent No.3 had called for the Annual Report of PAIC vide letter dated 4.6.1997. After scrutiny of the said

 report, it was revealed that the PAIC is working as a ..

Public Sector Undertaking and not as a State Autonomous Body. Thereafter once again PAIC was asked to clarify the status of the PAIC and also requested to give full details thereof. The PAIC has clarified that it is a Government undertaking and its share capital is contributed by the Punjab Govt. and Govt. of India. The existing rules and orders of the Govt. of India do not permit the applicant to have his previous service in PAIC counted towards pension and other retirement benefits in Central Government service. In view of the above position, respondent No.1 had no other option except to cancel the order passed on 28.8.1992. Accordingly, after consulting the department of Pension and Pensioner's Welfare, respondent No.1 issued order on 10.1.2000 to supersede its earlier order dated 28.8.1992.

4. The respondent No.3 has also filed written statement and has stated that they had made it clear to the respondent No.1 vide his letter dated 24.3.1988 that PAIC was a company incorporated under the Companies Act and the share capital of which is contributed both by the State and Central Governments. It was also made it clear to the respondent No.1 that it was a Govt. company and, therefore, could be called the State Govt. Undertaking. Thereafter again, vide letter dated 22.9.1988, it was made clear to the Union of India that the Corporation is neither an autonomous body nor a statutory body. The applicant thereafter got a letter from the DGM (P&A) to the effect that the Corporation was a State

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autonomous body which was factually incorrect. He was issued a letter of advice on 26.10.1999. It is, therefore, wrong that it was on the basis of the opinion given by them that the applicant had opted for counting of service under the PAIC.

5. Heard both learned counsel for the rival contesting parties and perused the records.

6. During the course of the argument, learned counsel of the applicant submitted that respondent No.1 had earlier obtained information from the PAIC and thereafter considered the case of the applicant for counting his previous service in terms of the DOP&T's OM dated 29.8.1984 and allowed him for counting his previous service i.e. from 4.7.1973 onwards for the purpose of pension and other retiral benefits and an order to this effect was also issued on 28.8.1992. The respondent No.1 after a lapse of about 8 years again obtained information about the status of PAIC. This time PAIC indicated that it is a public sector undertaking and not an autonomous body. Thereafter, the respondent No.1 had withdrawn his earlier letter dated 28.8.1992 and has deprived the applicant from counting the service rendered by him in PAIC from 4.7.1973 onward for the purpose of pension and other retiral benefits at the time, when the applicant is due to retire shortly. The sudden reversal of the decision after a lapse of nearly 10 years at the fag end of the applicant's career, will adversely affect him and put him to a great financial loss. Had the

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applicant been informed about this position at the time of his absorption, he would have gone back to his parent department where the persons who were juniors to him are working in higher pay scale of Rs.7300-7600 (pre-revised) and their revised basic pay is more than Rs.24000/- As compared to them, the pay of the applicant is Rs.19000/-. It is submitted by the learned counsel for the applicant that it is the respondent No.1, who had taken steps for counting his previous service rendered by him in the PAIC by giving him an option to deposit an amount of Rs.70,000 of CPF received by him from PAIC in the Central Govt. account. The applicant had given his option to deposit the said amount which included the interest also for counting his services rendered in PAIC. Now after a lapse of considerable period when applicant is due to retire shortly, they cannot go back on their promise made by them at the time of absorption of the applicant. He further submitted that it is a fit case to invoke Rule 88 of CCS (Pension) Rules and grant relaxation to avoid hardship to the applicant. The learned counsel for the applicant also submitted that in a similar case the Tribunal in OA No.1751 of 1992 in the matter of D.N. Chopra Vs. UOI allowed the benefit of counting the services of the applicant rendered by him in MCD towards pension and also in O.A. No.1232 of 1997 in the matter of S.Y. Khan Vs. UOI wherein this Tribunal allowed the applicant in that case to count his services in LIC for the purpose of computing his pension.

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7. On the other hand, learned counsel for the respondent No.1 stated that earlier the applicant was allowed to deposit the amount of about Rs. 70000/- of in Central Govt. account for the purpose of counting his past service rendered in PAIC from 4.7.1973 to 1.3.1988 for pension and retiral benefits on the basis of wrong information received from the PAIC. Later on PAIC has clarified that the PAIC is not a State Autonomous Body but a public sector undertaking. That is why respondent No.1 has withdrawn his earlier order dated 28.8.1992. The instant rules do not provide for an employee to count his previous services rendered by him in public sector undertaking for the purpose of pensionary benefits. Hence, the service rendered by the applicant in PAIC cannot be counted for the purpose of pensionary benefits.

8. The admitted facts of the case are that the applicant had rendered about 15 years service in the PAIC before he was absorbed in DNES/MNES as a Principal Scientific Officer in 1988. The respondent No.1 has also on the basis of the information received from respondent No.3 had asked the applicant to deposit a sum of Rs.70,000/- and allowed him to count his services rendered in PAIC from 4.7.1973 onwards for pensionary benefits. It is only after about a period of 10 years, the respondent No.1 has withdrawn the earlier letter 28.8.1992. If the respondent No.1 had informed the applicant at the time of his absorption that he will not be entitled to count his past service rendered in PAIC for the purpose of

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pension and other retiral benefits, he would have gone back to his parent organisation. After having given an assurance to the applicant that his past service rendered in PAIC would be counted for the purpose of pensionary benefits, the respondent No.1 now cannot go back and withdraw that benefit on the ground that they have granted that benefit to the applicant on the basis of wrong information. It is seen from record that the applicant had rendered about 15 years of service from 4.7.1973 to 1.3.1988 in PAIC whereas he will render only about 14 years of service before his retirement with the Central Govt. and, therefore, if the benefit of counting his service rendered in PAIC is denied by the respondent No.1, he will be put to a ~~financial~~ great loss. In this case, I find that the applicant is being denied the benefit of counting his past service rendered in PAIC for no fault of his. The dispute about furnishing the wrong information is between respondent No.1 and respondent No.3 and the applicant cannot be made to suffer for this. Rule 88 of CCS (Pension) Rules reads as under :

"where any ministry or department of the Government is satisfied that the operation of any of these rules, causes undue hardship in any particular case, the Ministry or Department, as the case may be, may by order for reasons to be recorded in writing, dispense with or relax the requirements of that rule to such extent and subject to such exceptions and conditions as it may consider necessary for dealing with the case in a just and equitable manner :

Provided that no such order shall be made except with the concurrence of the Department of Personnel and Administration Reforms."



Since the applicant had given an option for absorption in the Central Government on the promise made by the respondents to count his past service, they cannot go back on their promise and deny that benefit now at the fag end of his retirement.

9. In view of the foregoing paragraphs, I find that it is a fit case to set aside the order dated 10.1.2000 passed by the respondent No.1 and restore the ~~provisional~~ ^{order} contained in letter dated 28.8.1992, counting the service of the applicant rendered by him in PAIC from 4.7.1973 onwards as qualifying service for the purpose of pension and other retiral benefits.

10. For the reasons recorded above, the present OA is allowed and the order dated 10.1.2000 is set aside and the respondents are directed to count the service rendered by the applicant in PAIC for the period from 4.7.1973 till the date of his absorption in the Central Govt. as a qualifying service for the purpose of pensionary benefits. No costs.

M.P. Singh
(M.P. Singh)
Member (A)

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