

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 1831/2001

New Delhi, this the 14th day of March, 2002

Hon'ble Shri Govindan S.Tampi, Member (A)

In the matter of :-

Shri S.R. Juneja,
S/o Shri Shyam Lal Juneja
Ex. Technical Assistant under
Directorate of Sugarcane Development
Ministry of Agriculture
Krishi Bhawan,
New Delhi.

...Applicants

(By Advocate Mrs. Meenu Maine proxy
counsel for Shri B.S. Maine)

V E R S U S

UNION OF INDIA : THROUGH

1. Secretary
Ministry of Agriculture,
Department of Agriculture & Cooperation,
Krishi Bhawan,
Rajendra Prasad Road,
New Delhi.

...Respondents

(By Advocate Shri M.M. Sudan)

O R D E R (ORAL)

By Hon'ble Shri Govindan S.Tampi,

This OA is directed against the refusal of the respondents to grant the applicant pro-rata pension for the period 07.05.1955 to 30.09.1967, when he had served in the Ministry of Agriculture.

2. Heard Smt. Meenu Maine, learned proxy counsel for the applicant and Shri M.M. Sudan, learned Sr. Standing Counsel for the respondents.

3. The applicant joined the Ministry of Agriculture as LDC on 07.05.1955 to become a Technical Assistant in which capacity he moved out in 1967 as

Admn. Assistant to National Seed Corporation, a Public Sector Undertaking (PSU) under Agriculture Ministry where he joined on 06.09.1967. His technical resignation was accepted on 30.09.1967. He retired from the Corporation on 10.02.1993 by receiving contributory Provident Fund. His request dated 24.05.1993 for grant of pro-rata pension from the Ministry of Agriculture was turned down on the ground that as the Corporation did not have a pension scheme, grant of pro-rata pension did not arise. Still, after considering the representations, the Ministry asked the Corporation on 19.06.1998 to send the service book of the applicant nothing was done by the Ministry, though the applicant had served legal notices on the respondents. Applicant's request was finally rejected on 1.04.1999 holding that DOP&T's Circular dated 31.01.1986 was applicable only from 06.03.1985. This was illegal and arbitrary, according to the applicant. He feels that as he had taken up the assignment with National Seed Corporation was only with the permission of the Administrative Ministry, he was entitled to come with the purview of CCS (Pension) Rules. Denying him, the benefit on the ground that it was applicable only from 06.03.1985 was improper. His appeal dated 15.05.2000 was also not considered. Hence this OA.

4. Grounds raised in the OA are that

- i) His taking up the assignment with the PSU was with the Govt. permission and therefore he was entitled for pension.

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ii) His case was covered by Rule 26(2) of CCS (Pension) Rules.

iii) Notification dated 01.01.1986 has provided that resignation with permission would not entail forfeiture of service.

iv) His case is protected by Rule 26(2) of the Pension Rules and consolidated instructions of 01.01.1986. *and*

v) His appeal has not been decided even after considerable time.

He therefore, seeks quashing of respondents order dated 01.04.1995 and prays for grant of pro-rata pension. The above plea was reiterated by Ms. Meenu Mainee, learned proxy counsel for the applicant.

5. In the reply, it is pointed out that the applicant who moved from the Ministry of Agriculture in 1967 to National Seed Corporation a P.S.U. retired on 10.02.1993 under the Corporation's Voluntary Retirement Scheme (VRS) and received benefits thereto. His request for pro-rata pension was not found feasible and hence rejected. Neither DOP&AR's order dated 25.03.1975 providing for pro-rata pension for PSU absorbs benefit between 08.11.1968 and 21.04.1972 nor DOP&T's order dated 31.01.1986 bringing into effect the provisions from 06.03.1985 did not cover his case. Further his joining NSC on his absorption was not in public interest. Similarly, Rule 26(2) of the CCS (Pension) Rules was not applicable in his case

as he had left the Govt. to join to PSU and not Govt.. The application was hit by limit as the applicant's representation was rejected on 23.03.1994 and repeated representations he made through Members of Parliament and other VIPs did not extend the limitation. As he had left the Govt. service to take up a job in a PSU his resignation was not a technical resignation. He was in receipt of all the retiral benefits under the VRS of the Corporation and nothing more was permissible. The applicant's representation for pro-rata pension had been rejected when he was working NSC itself. Rejection was not only because NSC had no pension scheme but because the applicant was not entitled ^{as} ~~for the service~~ in terms of the instructions. Merely because he made repeated representations limitation did not get extended and the applicants version that the matter remained under consideration was a fallacy. Respondents repeat that his joining NSC, on being selected in terms of an advertisement was on his own volition and not in public interest and his resignation was not a technical resignation. He was also not covered by Rule 26(2) of CCS (Pension) Rules. The applicant's not having been entitled in law for the grant of pro-rata pension the same was rightly rejected. During the oral submissions, Shri Sudan, learned Sr. Standing Counsel reiterated that both on merits and on limitation the applicant's case deserved to be dismissed.

6. I have carefully considered the rival contentions and considered the law on the issue. In this OA request of a former Govt. servant who joined a PSU wherfrom he retired under Voluntary Retirement

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Scheme for grant of pro-rata pension for the period of his service in the Govt. from May 1955 to September, 1967, has been rejected by the respondents as not covered under the Rules. Respondents contested the claim not only on merits but also on the grounds of limitation. The OA has been filed challenging a letter dated 01.04.1999, issued by the Ministry of Agriculture addressed to the Ministry of Personnel, Public Grievances and Pensions, copy endorsed to the applicant, indicating as to why his claim for pro-rata pension could not be acceded to. If this was the only letter the applicant's filing the OA would not have been hit by limitation. But that is not so. The letter makes it clear that on an earlier occasion, in this matter, Ministry of Agriculture had written to the Ministry of Parliamentary Affairs and Tourism. It is observed that as early as on 13.08.1984, Ministry of Agriculture, while replying to NSC's reference dated 20.01.1984 had clarified that the applicant's case was not covered by the DOP&AR letter No.28016/4/76-Estt.(C) dated 25.03.1977. The applicant, however, went on making repeated representations, a few of which had been rejected by the respondents. It is a settled law that repeated representations per se would not cure the malady of limitation and latches as held by the Hon'ble Supreme Court in the case of S.S. Rathore Vs. State of M.P. (1989 (4) SCC 582). Applicant's OA falls squarely within the purview of the above decision and is hit by limitation. Nothing has been brought as to show that extraordinary circumstances, existed which prevented the applicant from filing the OA in time. Applicant

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has, therefore, not been able to cross the first hurdle of limitation under Section 21 of the Administrative Tribunals Act, 1985.

7. Applicant's case suffers on merits as well. The applicant in this case has relied upon the instructions contained in DOP&AR order No.28016/4/76-Estt dated 25.03.1977, for obtaining pro-rata pension benefits. However, the above benefits would be available to those who were on deputation to PSUs on Public interest and who were absorbed in PSUs between 08.11.1968 and 21.04.1972 the applicant does not fulfil either of the conditions as nothing is brought on record to show that his posting to the PSU was in Public interest. In fact, it was a movement by him on his own volition, in search of *Welles*, better ~~assignments~~. Besides he resigned from the Ministry of Agriculture and joined NSC, where he got absorbed, in September 1967 itself i.e. much before 06.11.1968. Besides, DOP&Ts OM No.28016/5/85-Estt(C) dated 31.01.1986 on permanent transfer of Central Govt. servants to the Central PSUs also does not help him as his is not a case of transfer, but a posting to the PSU after resignation. Further the Scheme is applicable only from 06.03.1985 and not earlier. On this count also the application fails. The last plea made by the applicant is that he is protected by Rule 26(2) of the CCS (Pension) Rules, in terms of which the earlier service is not forfeited when a new service is joined. But this is only applicable to Govt. service and Govt. in terms of the definition in Rule 3(1)(i) is Central Govt. and *not* a P.S.U. Here also the applicant's case fails. He could not have

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been granted pro-rata pension and the respondents have correctly rejected in law. The said decision does not warrant any interference.

8. In the above view of the matter OA fails and is accordingly dismissed. No costs.

(GOVINDAN S. TAMPI)
MEMBER (A)