

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA NO. 215/2001

This the 4th day of June, 2002

HON'BLE SH. SHANKER RAJU, MEMBER (J)

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Jagmal Singh Yadav,
S/o Late Shri Rao Sriram,
Retd. Assistant from the
Office of Directorate General
of Civil Aviation,
Technical Centre,
Opposite Safdarjung Airport,
New Delhi.

And

E/o V&PO Jaffarpur Kalan,
New Delhi-110073.

.... Applicant

(By Advocate: Sh. S.M.Garg)

Versus

1. Union of India through
Its Secretary,
Ministry of Civil Aviation,
Rajiv Gandhi Bhawan,
'B' Wing, Safdarjung Airport,
New Delhi.
2. The Director General of Civil
Aviation (Technical Centre),
Opposite Safdarjung Airport,
Rajiv Gandhi Bhawan, New Delhi.
3. The Secretary,
Ministry of Agriculture & Irrigation,
(Deptt. of Agriculture),
Krishi Bhawan, New Delhi.
4. The Principal,
Pay & Accounts Officer,
Ministry of Food,
(Department of Food),
Pension & Fund Section,
Curzon Road Hutments,
New Delhi.

(By Advocate: Sh. S.K.Gupta)

O R D E R (ORAL)

By Sh. Shanker Raju, Member (J)

Applicant, who retired on 31.1.88, has sought payment of
GPF amount of Rs.1381/- with accrued interest w.e.f. 9.8.1968
till the actual date of payment as well as direction to the

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respondents to count the past Military service rendered by him as Combatant Clerk/Store Man (Technical) w.e.f. 11.11.1949 to 12.11.1954 and consequent revision of his pay by taking into account the said benefit of past service and pay the consequential arrears of pay.

2. Counsel for applicant stated that the request of the applicant for counting the Military service has been rejected by the respondents by an order dated 21.11.1975 but thereafter by a letter dated 3.8.85 by Senior Record Officer of Army Ordnance Corps Records wrote to the Civil Aviation Department as to the entitlement of the applicant and his eligibility for the benefit of counting his Military service as Trade Clerk and Storeman (Technical) fall under Group 'B' and the nature of the work was almost more or less identical. In this backdrop, it is stated that the aforestated letter has not been taken into consideration by the respondents and the aforestated service has not been counted for revision of his pay and other benefits though the applicant continued making representations to the respondents. As the cause of action is continuing and there is no challenge to the order dated 21.11.75 after the letter of Army Ordnance Corps dated 3.9.85, the case of the applicant is out of limitation.

3. As regards his GPF Account, it is contended by an order dated 8.6.94 written to the Principal Pay & Accounts Officer addressed by Under Secretary wherein it has been admitted that the applicant was transferred to the Ministry of Agriculture without including Rs.1381/- as mentioned in the transfer advice memo dated 3.10.89 and concerned officers have been requested to trace out the GPF balance and the same may be dispersed to the applicant as the delay in payment was not

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attributable on his part. It is in this backdrop stated that the applicant has already given a representation dated 26.5.84 to the respondents by giving all the details through a communication dated 8.8.2001 but they have not specified that what would be the language of the affidavit whereas the aforesaid information already existed on the record of the respondents. So applicant is entitled for GPF amount of Rs.1381/- with accrued interest thereon w.e.f. 1968 till the date of the payment on the said amount.

4. On the other hand, the learned counsel Sh. Gupta appearing for the respondents stated that the relief of the applicant regarding counting of Military service is barred by limitation by the decision in S.S.Rathore vs. State of M.P. AIR 1990 SC 10. As per Section 21 (2)(a) if any grievance which had arisen before 3 years after coming into operation of the CAT shall not be entertained and the relief as prayed by the applicant in his OA is without jurisdiction. It is stated that in absence of any challenge to the order passed on 21.7.75, the letter dated 3.9.85 cannot be treated as an order passed by the respondents and is only a communication by the Army Ordnance Corps which would not extend the limitation and the OA is barred by limitation as the applicant has slept over his right and as such he cannot claim any remedy to that effect.

5. I have carefully considered the rival contentions in so far as relief of counting his service is concerned. In my considered view the same is hopelessly barred by limitation and also in absence of any challenge to the order passed by the respondents on 21.11.75 rejecting the claim of the applicant for counting his service for further benefits.

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Applicant referred to a letter dated 3.9.85 but it would not extend the period of limitation as the aforesaid letter is only a communication to the respondents by the Army Ordnance Corps justifying the payment of counting of service as the applicant has not assailed the order dated 21.11.75 and also not raised his grievance immediately after the letter of 3.9.85 was served upon the respondents. Now challenging the same after his retirement in 1988 after a period of more than 14 years in view of the decision of the Apex Court in S.S.Kathore's case (supra). As the cause of action is not a continuing one so the applicant has lost his remedy and this Court has no jurisdiction to deal with this issue.

6. As regards GPF is concerned as the respondents have themselves acknowledged in the year 1984 that there is no delay on the part of the applicant and the GPF balance has already been sanctioned by the respondents and the only impediment is a letter dated 8.8.2001 where the respondents have written to the applicant to file an affidavit to enable them to disburse the balance. Learned counsel for applicant stated that the respondents may apprise him the language of the affidavit and contents to be incorporated which is to be submitted to the respondents. Sh. Gupta in reply stated that the applicant has to depose in his affidavit that he owes this amount and also to produce the documents which he has already furnished to the respondents in the past.

7. In this view of the matter though the relief of counting his service is denied to the applicant as is not legally sustainable OA is disposed of with the direction to the applicant to submit an affidavit to the respondents as per the observations made above within one week from the date of

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✓ receipt of a copy of this order. Thereafter the same would be considered by the respondents within 4 weeks and they will release the GPF balance alongwith an interest as prescribed under the rules from 1968 till actual payment is made. With these directions the OA is disposed of. No costs.

S. Raju

(SHANKER RAJU)
Member (J)

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