

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO.2259/92

New Delhi, this the 13th day of November, 2000. (B)

Hon'ble Mr. S.A.T. Rizvi, Member (A)

Sh. H.R. Verma, S/O Late Sh. K.C. Verma
aged about 69 years and retired as Joint
Advisor, Planning Commission, R/O B-228,
Yojana Vihar, Delhi-92.

...Applicant..
(By Advocate: Sh. Gyan Prakash)

VERSUS

Union of India through

- 1.. Member Secretary, Planning Commission, Yojana Bhawan, Parliament Street, New Delhi-1.
- 2.. The Secretary, Ministry of Personnel Public Grievances and Pension, North Block, New Delhi-1.
- 3.. The Secretary, Ministry of Industry, Udyog Bhawan, New Delhi-1.
- 4.. The Managing Director, National Federation of Industrial Cooperatives Ltd., 3, Siri Institutional Area, Khel Gaon Road, New Delhi-16.

...Respondents.
(By Advocates: Sh. N.S. Mehta for Respondent Nos. 1 & 2
Sh. Anil Singal, proxy counsel for
Mrs. P.K. Gupta for Respondent Nos. 3 & 4)

O R D E R

In this OA, the applicant is aggrieved by the denial of pension to him in respect of the period of his deputation from Planning Commission to National Federation of Industrial Cooperative Ltd. (NFIC) from 1.1.86 to 13.3.89. There are four respondents in this OA and, accordingly, one set of reply has been filed by respondent Nos. 1 and 2 and the other set by the respondent Nos. 3 and 4. The respondent Nos. 1 and 2 accept that the applicant has not been paid his pension

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for the aforesaid period on account of non-payment of leave salary and pensionary contributions by the NFIC to the Planning Commission in respect of the period the applicant was on deputation with that organisation. The respondent Nos. 3 and 4 contend that the matter is held-up on account of the applicant's failure to pay to the NFIC the amount of Rs.34,539/- due from the applicant on account of excess drawl etc. for the period of applicant's deputation aforesaid.

2. I have heard both the learned counsel for the parties and have perused the material on record.

3. My attention was specially drawn to the order dated 7.4.96 containing terms and conditions of the applicant's deputation from Planning Commission to the NFIC as the Managing Director of the Organisation. This order clearly provides that the NFIC shall pay leave salary and pension contributions within 15 days from the end of the month in which the pay on which it is based has been drawn by the applicant at the rates in force from time to time in accordance with the orders issued by the President under FR 1.16. By the same order, the provisional rates of leave salary and pension contributions were conveyed. It is seen from this order that different heads of account have been created for the aforesaid contributions to be made by the borrowing organisation, namely, the NFIC. It is not in dispute that the applicant joined the NFIC on deputation on 1.1.86 and proceeded on voluntary retirement from the said organisation w.e.f. 13.3.89 whereafter he was

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absorbed in the same organisation (NFIC). The services of the applicants were, however, terminated by the NFIC some time in March,89 itself whereafter he started pursuing the matters relating to the grant of pension with the Planning Commission as well as the NFIC. By his letter dated 6.11.89, he sought addition to qualifying service by a period of five years which application was, after consideration, rejected by the Planning Commission vide their letter dated 15.12.89 (Annexure A-17). The reason for disallowing the aforesaid benefit of additional qualifying service given in the above letter of 15.12.89 is that such a benefit can accrue only to those who attain the age of superannuation and not to those who retire voluntarily on an earlier date. The rejection was in terms of the relevant C.C.S. (Pension) Rules.

4. From a letter placed on record (Annexure A-19), it appears that the NFIC contributed towards leave salary and the pension of the applicant from 1.1.86 upto August,87 and in the process contributed an amount of Rs.13,763/- leaving a balance of Rs.39,486/-. The details of this balance amount were supplied to the NFIC (Annexure A-20). During the course of the arguments in this case, my attention was drawn to the exchange of correspondence between the Planning Commission Ministry of Industry and the NFIC on the subject of grant of pension to the applicant and the balance payment due from the NFIC in respect of the leave salary and pension contributions for the period of applicant's deputation with that organisation. I find that the NFIC have been

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instructed and asked several times to pay the aforesaid balance amount to the Planning Commission to enable the latter to finalise the pension of the applicant. The learned counsel for the applicant has placed reliance not only on the terms and conditions of deputation but also on the relevant Govt. of India's decision to argue that the NFIC must, in any case, make the balance payment. The relevant provision contained in the terms and conditions of the applicant's deputation has already been referred to in para 3 above. The Govt. of India's decision in question on which reliance has been placed by the applicant is reproduced below:-

"(b) Where, however, the responsibility for making pension contributions is that of the borrowing organisation and where either some of the contributions have not been recovered or the records in respect of the recoveries of such contributions are incomplete, while the authorities concerned should pursue the matter with the borrowing organisation separately for appropriate action, this should have no bearing on the processing and finalisation of pension papers."

5. In the circumstances, I am inclined to think that the position in this regard stands settled properly and effectively and that there is no option available to the NFIC except to pay the balance amount to the Planning Commission at the earliest possible as the matter has been grossly delayed on account of their (NFIC) unhelpful attitude.

6. It has been contended on behalf of respondent Nos. 3 and 4 that a certain amount became due from the applicant to the NFIC in respect of the period of the

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applicant's deputation with that organisation and that the delay in the payment of the balance amount to the Planning Commission was entirely due to the non-recovery of the aforesaid amount of Rs.39,486/- from the applicant. This plea is wholly untenable viewed in the context of the clear provisions made in the terms and conditions of applicant's deputation with the NFIC and the Govt. of India's decision quoted in para 4 above.

7. In the result, the OA succeeds and is disposed of with the following directions:

- i) The respondent No.4 is directed to pay the balance amount of Rs.39,486/- in respect of leave salary and pension contributions to the Planning' Commission (Respondent No.1) within a period of two months from the date of receipt of a copy of this order.
- ii) The respondent No.3 is also directed to ensure that the respondent No.4 which is a sponsored organisation of the Ministry of Industry does indeed pay the aforesaid amount within the period laid down.
- iii) The respondent No.1 is directed to finalise the pension papers of applicant within 15 days of receipt of the balance payment from the NFIC and also pay the amount of pension to the applicant as per rules.

8. The respondent No.4 (NFIC) is free to realise its dues from the applicant in the manner considered

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appropriate by them without linking up such recovery with the payment of balance amount aforesaid to the Planning Commission.

No costs.

S. A. T. Rizvi

(S.A.T. Rizvi)
Member (A)

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