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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

DA No. 531/99

New Delhi: this the 2nd day of November, 2000.

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A)

HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Shri J. L. Bindra,

S/o Shri Rattan Singh Bindra,

R/o GH-8/112, Paschim Vihar,

Delhi-41

.....Applicant.

(By Advocate: Shri S. M. Rattan Paul)

Versus

1. Union of India through
the Secretary to the
Govt. of India,
Ministry of Urban Affairs & Employment,
Nirman Bhawan,
New Delhi.
2. The Secretary,
Ministry of Personnel, Public Grievances
& Pensions,
North Block,
New Delhi.
3. The Director General of Works,
Central Public Works Department,
Nirman Bhawan,
New Delhi.
4. The Superintending Engineer,
Central Store Circle,
Central Public Works Department,
Netaji Nagar,
New Delhi.
5. The Pay and Accounts Officer,
Pay & Accounts Office (NTZ),
Ministry of Urban Development,
Central Public Works Department,
New Delhi

....Respondents.

(By Advocate: Shri Gajendra Giri).

ORDER

Mr. S. R. ADIGE VICE CHAIRMAN (A)

Applicant impugns respondents' letter dated

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11.7.96 (Annexure-A1) and dated 22.7.98 (Annexure-A2). He prays that his service period from 6.5.61 to 27.7.70 (excluding the period from 1.10.68 to 27.7.70 which was treated as dies-non) as qualifying service for grant of pension to him, with consequential benefits including arrears of pension and interest @ 12% p.a. thereon.

2. Applicant joined CPWD on 6.5.61 as a temporary Senior Operator. Consequent to his participation in a strike on 19.9.68, his services were terminated on 30.9.68. He was taken back in service on 28.7.70. The break in service from 1.10.68 to 27.7.70 was condoned, but this period was treated as dies non. He retired on superannuation on 30.11.95.

3. Respondents state in impugned letters dated 11.7.96 and 22.7.98 that they are unable to treat applicant's service period from 6.5.61 to 27.7.70 as qualifying service for grant of pensionary benefits to him in accordance with Rule 17 CCS (pension) Rules, firstly because he has been paid WCPF including Govt. contribution and interest thereon up to February, 1969 amounting to Rs. 996/- for his entire service from 6.5.61 to 30.9.68 and secondly because he did not give him option to come over to the pension scheme in terms of OM dated 29.8.89 issued by DP & AR.

4. In para 4.8 of his OA applicant has specifically stated that he submitted his option form to come over to the pension system on 28.10.72 (Annexure-A9). This assertion has not been specifically denied by respondents in the corresponding paragraph of their reply.

5. Under the circumstance respondents cannot assert that applicant did not exercise his option, to deny him

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the benefits of coming over to the pension scheme. In this connection circulars issued from DP & AR from time to time permit employees covered by the CPF Scheme to come over to the pension scheme provided they exercise their option in time. In such cases, they are required to refer to Govt the Govt. contribution to CPF and interest thereon at the time of settlement of CPF Account.

6. In the light of the foregoing, this OA succeeds and is allowed to the extent that respondents are directed to count the service rendered by applicant from 6.5.61 to 27.7.70, (less the period from 1.10.68 to 27.7.70) as qualifying service for purposes of pension and other retiral benefits. Respondents should recalculate the pension and other retiral benefits accordingly and pay the same to applicant along with arrears within 4 months from the date of receipt of a copy of this order, after adjusting the Govt. contribution to CPF and interest thereon from the same. The prayer for interest and costs is rejected.

A. Vedavalli
(DR. A. VEDAVALLI)
MEMBER (J)

S. R. Adige
(S. R. ADIGE)
VICE CHAIRMAN (A).

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