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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

O.A. No.1672/98

HON'BLE SMT. SHANTA SHASTRY, MEMBER (A)

New Delhi, this the 5<sup>th</sup> day of January, 2000

Shri S.Y. Khan  
S/o Shri Shoukat yar Khan  
Retired Deputy Director  
All India Radio  
Staff Training Institute (Programmes)  
New Delhi  
R/o 1027, Lakshmi Bai Nagar  
New Delhi 110 023

...Applicant

(By Advocate: Shri T.C.Aggarwal)

Versus

Union of India, through:

1. Secretary  
Ministry of Information & Broadcasting  
Govt. of India  
Shastri Bhawan, New Delhi
  2. Director General  
All India Radio  
Parliament Street, Akashwani Bhawan  
New Delhi 110 001
  3. Secretary to the Govt. of India  
Department of Pension & Pensioners Welfare  
North Block, New Delhi 110 001
  4. Zonal Manager  
Life Insurance Corporation of India  
Jeevan Vikas  
16/98, Mahatma Gandhi Marg  
Kanpur 208 001
- ...Respondents

(By Advocate: Shri A.K. Bhardwaj for R-1  
and Shri Vivek Sharma)

O R D E R

Hon'ble Smt. Shanta Shastry, Member(A)

The applicant, who is a retired Deputy Director in the All India Radio, is seeking directions to the respondents to count his service rendered with effect from 7.11.1958 to 31.8.1966 with respondent No.4 (LIC of India) towards pension. Alternatively, he wants to be allowed to deposit with the Govt. of India the amount of pension liability for the period

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from 7.11.1958 to 31.8.1966 in the post of Assistant in the then pay scale of Rs.210-350 with the LIC of India in case the latter does not consent to discharge their liability.

2. The applicant initially worked as an Assistant in the LIC of India Branch Office Bareilly from 7.11.1958 to 31.8.1966. Thereafter, on being selected to the post of Lecturer in English in Govt. College, Shahabad, Rampur (U.P), the applicant tendered his resignation and joined the new post on 1.9.1966. He continued to serve in different Colleges of the Govt. of U.P. till 5.10.1975 when he joined as Programme Executive, All India Radio, Jaipur on being selected for the said post by the Union Public Service Commission (in short "UPSC") in 1975. After serving in the All India Radio he retired on 30.7.1992 on superannuation. The applicant was paid pension on the basis of the service rendered by him in the Govt. of India as well as the service rendered by him with the Govt. of U.P. from 1.9.1966. His request to count the service rendered by him in the LIC, i.e. with Respondent No.4, was not considered towards pensionary benefits.

3. The applicant represented to the respondents to consider his request for counting of past service in the LIC towards pensionary benefits. The Govt. of India vide their letter dated 27th November, 1991 wrote to the Life Insurance Corporation of India that the Deptt. of Pension and Pensioners' Welfare have inter-alia informed that the service rendered by Shri

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S.Y. Khan can be counted for pension and other benefits provided the LIC is willing to bear the pensionary liability for the period in question, i.e. from 7.11.1958 to 27.8.1966. The LIC was requested to intimate if they would be willing to bear the pensionary liability irrespective of the fact that there is no pension scheme in the LIC. A copy of this letter was endorsed to the applicant Shri S.Y. Khan, Deputy Director, All India Radio, New Delhi advising him to follow up the matter with the LIC authorities and to give a certificate to the effect that he is ready to meet the pensionary liability for the said period in case the LIC does not agree to meet it. The LIC, however, informed that LIC is not willing to bear the pensionary liabilities of the applicant for the period he worked with the LIC.

4. The LIC, i.e. Respondent No.4, has not agreed to bear the pensionary liability on the following grounds:-

(i) LIC does not have any pension scheme;

(ii) The application is hopelessly barred by limitation. He resigned on 27.8.1966. So claiming relief now after 30 years is to be rejected. His resignation was accepted when he was selected by the U.P. Govt. All dues of the applicant have been paid on 29.7.1967. Since then there is no connection with the applicant.

5. The learned counsel for the respondents No.1 to 3 have also raised the preliminary objection of limitation. The application is time barred. Secondly, LIC does not come under the purview of

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orders governing mobility of persons from Central Govt. Departments to autonomous bodies and vice versa. According to para 4 of the Department of Personnel & A.R.'s O.M. dated 29.8.1984 which gives the definition of Central autonomous body, LIC is not a Central autonomous body. It is a commercial organisation. Therefore the respondents seek the rejection of the application in-limeni without going into the merits. Once the applicant had accepted the value of pension from LIC in 1966 he cannot reopen the entire issue after a period of 33 years. The respondents further contend that there is no rule permitting any employee to deposit his pension contribution for the period rendered in a non-pensionable office.

6. The learned counsel for the applicant asserts that he fulfils all the conditions for counting of his past service in the LIC. He was duly selected. He was permitted by tendering technical resignation stating clearly therein that he had intention to join the Department to which he was selected. The respondents should have waived the negligible amount of pension liability for the disputed period. Respondent NO.2 should have allowed the applicant to deposit the amount as he had volunteered for the same. FR 115 empowers or authorises an employee on foreign service to make payment of pensionary liability or CPF to Govt. towards cost of pension. He wants the same to be applied in his case. The learned counsel for the applicant also is relying on a judgement dated 15.3.1996 in O.A. No.1751 of 1992 in the case of D.M.

Chopra Vs. Union of India and ors. In this case the period spent by the applicant under the autonomous body, i.e. Coal Board, was counted for pensionary benefits after he had joined the Public Sector Undertaking Coal India Ltd. He further contends that his case is fully covered by the decision of this Tribunal in O.A. No.1232/97 dated 29.7.1998 in the case of N.R. Yadav Vs. Union of India and others. In that O.A. the applicant was working with the Municipal Corporation of Delhi and later on had joined the Govt. of India. His past service in the Municipal Corporation of Delhi was allowed to be counted towards pensionary benefits.

7. According to the Respondents No.1 to 3 the judgements quoted by the applicant did not apply to the applicant. In the case of D.N. Chopra (supra) it was the transfer of a Central Govt. employee to a Central autonomous body. In the matter of N.R. Yadav (supra) also the applicant had resigned from the Municipal Corporation of Delhi and had joined Central Government service. The learned counsel for the respondents repeated the averments made in the counter. So also the respondent No.4.

8. The learned counsel for the applicant argues that he had made representations to the Respondents No.1 to 3, rather Respondents NO.4 and to Respondent No.1 and 2 even much before his retirement. He had been making representations since 1988. The learned counsel points out that as per O.M. dated 31.3.1987 of the Govt. of India, the Life Insurance Corporation

of India has been treated as a Central autonomous body for the purpose of grant of pro-rata retirement benefits to the permanent Central Govt. employees who are absorbed therein on the terms and conditions envisaged in O.M. dated 8th April, 1976 of the Ministry of Finance. He also contends that his resignation from LIC was a technical resignation as he had applied through proper channel for the post of Lecturer in the Govt. College, U.P. The applicant is also opposing the ground of limitation because according to him the cause of action arose in 1992. Also it is a recurring cause of action and limitation does not apply to claims of pension.

9. Heard the learned counsel for both the parties. I find that the question of limitation or the question of LIC being an autonomous body have already been answered by the learned counsel for the applicant. I do not think it necessary to go into the merits of these objections because in the year 1991 itself the Govt. of India has clearly accepted vide its letter dated 27.11.1991 that the applicant's past service with LIC can be counted for pensionary benefits provided the LIC is willing to bear the pensionary liability irrespective of whether it has a pension scheme or not. The respondents have also given the advise to the applicant to give certificate to the effect that he would be willing to meet the pensionary liabilities for the disputed period in case the LIC does not agree to meet it. The applicant has also stated that he would be willing to deposit the amount in case the LIC does not agree to meet the

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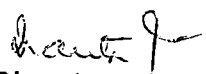
same. I find that the applicant's case is similar to the case of N.R. Yadav Vs. Union of India and others decided on 29.7.1998 in O.A. No.1232/97 cited by the applicant. The question is now mainly confined to the respondent No.4, i.e. LIC willing to bear the liability towards the pensionary benefits since the orders relating to mobility of personnel between Central Govt. and autonomous bodies envisages benefit of pension based on combined service and it provides for reciprocal arrangements between the Central Govt. and autonomous bodies and vice-versa, it is not fair to deny the applicant the benefit of the scheme. We have to bear in mind the spirit behind the issuing of these orders. Further in the O.M. dated 29.8.1984 para 3(b)(ii) describes the manner in which cases of employees of autonomous bodies where pension scheme is not in operation. According to this an employee of an autonomous body on permanent absorption in Central Govt. will have the option either to receive CPF benefits and start his service afresh in the Govt. or choose to count his service rendered in the autonomous body as qualifying service for pension by foregoing employer's share of CPF with interest thereon which will be paid to the concerned Govt. Department by the autonomous body. Since the Govt. of India has expressed willingness to count the applicant's service in LIC towards pension now it is between the Govt. of India and LIC, i.e. respondent No.4. They must settle it between themselves. The applicant has already shown willingness to deposit the pro-rata amount. Therefore, the applicant's past service with

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the LIC should be counted towards pensionary benefits. I, therefore, direct the respondents Nos.1 and 2 to settle the matter with respondent No.4, i.e. the LIC, to bear the pro-rata pension liability in case of the applicant. Since the applicant is willing to deposit the pensionary liabilities, the LIC may, if considered necessary, recover from the applicant whatever CPF might have been paid to him and then bear the pro-rata pension liability as per the orders of 12.9.1985 of the Department of Pension and Pensioners' Welfare. This will be done within a period of two months. Thereafter the applicant's Pension Payment Order may be revised suitably after counting the service rendered by the applicant with respondent No.4 from 7.11.1958 to 31.8.1966 alongwith the arrears.

10. In the result, the O.A. is allowed. I do not order any costs.

  
(Smt. Shanta Shastri)  
Member (A)

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