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Central Administrative Tribunal, Principal Bench

O.A. No. 1715 of 1998

New Delhi, this the 16th day of November, 2000

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

Shri Thomas Samuel, aged 45 years
S/o Mr. Samuel Mathew and
R/o 36A, Village & P.O. Mahipalpur (Behind
Govt. Boys Primary School)
New Delhi-110 037.

and Ex-Lower Division Clerk
Office of D.C. (Handicrafts)
Ministry of Textiles, Govt. of India,
West Block-7, R.K. Puram,
New Delhi-110 066.

- Applicant

By Advocate: Shri Gyan Prakash.

VERSUS

1. Union of India through Secretary,
Ministry of Textiles, Udyog Bhawan,
New Delhi.

2. Development Commissioner (Handicrafts)
Office of D.C (H),
Ministry of Textiles,
West Block-7, R.K. Puram,
New Delhi-110 066.

3. Secretary,
Department of Personnel,
North Block,
New Delhi.

4. Secretary,
Export Promotion Council for Handicrafts,
6, Community Centre, Basant Lok,
Vasant Vihar,
New Delhi-110 057. Respondents

By Advocates: None for the respondents.

O R D E R

by Hon'ble Mr. Kuldip Singh, Member (J)

The short question involved in this OA is
whether the applicant is entitled to the benefit of the
services rendered by him from 2.5.78 to 31.5.93.

2. The facts in brief, as alleged are that

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applicant on the basis of regular selection was appointed as Store Keeper and Accounts Clerk w.e.f. 2.5.78 in the All India Handicrafts Board now known as Development Commissioner (Handicrafts). Thereafter, he was posted as LDC in the same organisation and was declared quasi permanent w.e.f. 2.5.81. On 4.12.1987 the applicant was sent on transfer on deputation basis to the Export Promotion Council for Handicrafts (hereinafter referred to as EPCH) whose Chairman is also Development Commissioner (Handicrafts). Thus EPCH is also under the administrative control of Development Commissioner (Handicrafts). From 4.12.1987 to 4.12.1991 he remained in EPCH and was again sent on 1.1.1992.

3. In the year 1992, the applicant applied for a regular post of Assistant in the EPCH and Development Commissioner (Handicrafts) had given no objection for the same. The applicant was selected as Assistant in the EPCH and then he joined the same after submitting his technical resignation on 1.6.93 but the Development Commissioner (Handicrafts) accepted the technical resignation on 4.9.97, i.e., after nearly 4 years and a clause was added that benefits of past services rendered in the Development Commissioner (Handicraft) will not be permissible. The applicant thus claims that he has worked on the strength of the office of Development Commissioner (Handicrafts), the Ministry of Textiles from 2.5.78 to 31.5.93 and thus the impugned letter deprives him the benefits of about 15 years of service which amounts to denial of the retiral benefit. The applicant also represented against the impugned order to his parent office but to no effect. Hence, this O.A.

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4. In order to claim relief the applicant has alleged that EPCH was setup by the parent office of the applicant, i.e., Development Commissioner (Handicrafts) under the Chairmanship of Development Commissioner (Handicrafts) and EPCH is not a company for a profit setup under Section 25 of the Company Act, 1956. The Ministry is also concerned about the administration of this organisation. The Government had also been issuing grants for EPCH and thus for all practical purposes it is not a Central Autonomous Body. It is also pleaded that some of the Central Government employees absorbed earlier in the EPCH had also been given retiral benefits and one such employee is Shri T.C. Chadha who was working in the office of Development Commissioner (Handicrafts) but went on deputation to Carpet Export Promotion Council and got himself absorbed there. He was paid all the retiral benefits for the services rendered in the office of Development Commissioner (Handicrafts), as such applicant is praying for the equal treatment.

5. The respondents contested the O.A. Only respondent No.4 has filed the counter. No one turned up to argue this case. The respondents No.4 has simply pleaded that the organisation in which the applicant is working is a Company under the Companies Act, 1956 and it had been issued a licence under Section 25 as a non-profit making company and the same is not amenable to the jurisdiction of this Tribunal.

6. We have heard Shri Gyan Prakash, counsel for the applicant.

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7. The learned counsel for the applicant has referred to Rule 37 of the CCS (Pension) Rules and on the basis of the said rule submitted that when a Government servant who has been permitted to be absorbed in a service or post in or under a Corporation or Company wholly or substantially owned or controlled by the Central Government or a State Government or in or under a Body controlled or financed by the Central Government or a State Government, shall be deemed to have retired from the date of such absorption and subject to sub-rule(3) he shall be eligible to receive retirement benefits if any, from such date as may be determined, in accordance with the orders of the Central Government and after referring this he further submitted that the EPCH is also a company wholly under the control of the Central Government and Ministry also controls the same. Even the letter head of the EPCH shows that it is sponsored by the Ministry of Textiles, Government of India and he has also filed on record extracts from the Ministry of Textile Annual Report 1986-87 which deals with Development Councils and Export Promotion Council for Handicrafts is also in the list annexed with the Appendix. So the learned counsel appearing for the applicant submitted that on the basis of Rule 37, the applicant is entitled for his retiral benefits for the period 2.5.1978 to 31.5.1993.

8. Besides that, he has also referred that earlier there was one Shri T.S. Chadha who was working in the Accounts Department of the Development Commissioner (Handicrafts) office. He got absorbed in the Carpet Export

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Promotion Council. Similarly one Shri R.P. Rampal who was also in the office of the Development Commissioner (Handicrafts) was later on absorbed in the EPCH. He was also given retiral benefits on his retirement

9. From a perusal of Rule 37 and the decision taken by the Government as noted in Swamy's Book on CCS (Pension) Rules we find that the applicant who had worked in the office of the Development Commissioner (Handicrafts) under the Ministry of Textiles for a pretty long period of 15 years is also entitled to the retiral benefits since he has joined the service under EPCH with the permission and consent of his parent office, i.e., Development Commissioner (Handicrafts). It is further stated that he had applied in the EPCH through proper channel. He had submitted technical resignation which was accepted after a period of 4 years but without any rhyme and reason a clause was added that he will not be entitled to the benefit of his services from 2.5.1978 to 31.5.1993 but in view of the provisions of Rule 37 of the CCS (Pension) Rules, we find that the addition of the clause in the acceptance of resignation is quite contrary to the rules and cannot be sustained, so the same is hereby quashed.

10. In view of the above, OA is allowed and the impugned order is quashed. We direct respondent No.1 to 3 to pay retiral benefits to the applicant on the basis of his past service from 2.5.78 to 31.5.1993 in accordance with rules and instructions on the subject. These directions should be complied with within a period of 2 months from the date of receipt of a copy of this order.

No costs.

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

Kuldip Singh
(Kuldip Singh)
Member (J)

Rakesh