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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1952/1998

New Delhi, this 20th day of March, 2001

Hon'ble Shri M.P. Singh, Member(A)

P.S. Mehra
Flat No.C-3/271
Yamuna Vihar, Delhi-53

.....Applicant

(By Shri Jog Singh, Advocate, through proxy counsel
Mrs. Meenu Mainee)

versus

Union of India, through

1. Secretary
Ministry of Power, New Delhi
2. Controller General of Accounts
M/Finance, LN Bhavan, New Delhi
3. Sr. Accounts Officer (Admn.)
Principal Accounts Office
M/Power, R.K.Puram, New Delhi .. Respondents

(By Shri R.P. Ralhan, proxy for Shri J.B.Mudgil,
Advocate)

ORDER(oral)

The applicant has filed this OA challenging the orders dated 10.7.97, 7.4.97 and 1.8.96 passed by the respondents.

2. It is seen from order sheets that the learned counsel for the applicant has not been appearing on the last several occasions. Since it is a case of 1998, I proceed to dispose of the case under Rule 15 of CAT (Procedure) Rules, 1987.

3. Brief facts of the case are that the applicant was appointed as Junior Accountant on 29.9.84. Later on he was appointed as Senior Accountant on 17.6.88. In response to an advertisement dated 7-13 March, 1992, the applicant applied for the post of Accounts Officer in



✓ National Institute of Fashion Technology (NIFT, for short) on deputation basis. He was selected for the post and was relieved to join his new assignment on 20.7.92. Later on, the applicant was permanently absorbed in NIFT with effect from 1.10.94.

4. As per the terms and conditions envisaged in Deptt. of Pension & PW's OM dated 5.5.89, the applicant was to exercise his option within six months either to (i) receive pro-rata monthly pension or (ii) receive a lump sum amount in lieu of monthly pension. Para 8 of the OM envisages that on his permanent absorption in NIFT, the family of the applicant would be eligible for family pension as admissible under the Central Government. He was informed by the respondents on 8.9.96 that he is not eligible for pension though he fulfilled the condition that he had completed 10 years of regular service/qualifying service under the Central Government and that he was absorbed in an organisation which does not have a pension scheme. Since then, applicant had made several requests to the respondents for settlement of pension but the latter did not accede to his request. Aggrieved by this, he has filed the present OA.

5. Respondents have stated in their reply that the present OA is not maintainable because as per appendix 12(3)[4] of CCS (Pension) Rules, 1972, a government servant who has not put in 10 years of service at the time of absorption is not entitled for pension. According to them, applicant has not completed 10 years of minimum qualifying service because he had availed 70 days EOL out of which 34 days of EOL was non-qualifying



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for pensionary benefits and increment purpose. However, the case of the applicant was referred to Deptt. of Pension & PW vide letter dated 30.5.96 which in turn clarified that the applicant was not entitled for pro-rata pension because he had not completed 10 years qualifying service on the date of his absorption in PSU. The applicant was eligible for proportionate service gratuity based on the length of service in lieu of pension and accordingly a sum of Rs.18525 against service gratuity and Rs.11115 against retirement gratuity i.e. total of Rs.29640 has been paid to him. As regards averments made by the applicant that rounding of period of 3 months or more as one complete half-year, the same is applicable only in superannuation case and not in case of absorption. In view of the facts and circumstances of the case, the applicant is not entitled for any relief and therefore the OA deserves to be dismissed with costs.

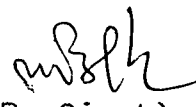
6. Heard the proxy counsel for the respondents. It is an admitted fact that the applicant has not completed 10 years of qualifying service on the date of his absorption in the PSU. It is also not disputed that the applicant has availed 70 days EOL out of which 34 days were not to be counted towards increment and pension. As regards the contention of the applicant that the service should be rounded off by counting the period of 3 months or more as one complete half-year, this cannot be accepted as it is not supported by the clarification given in para 4, vide GoI OM No.26(18)-E.V(B)/75 dated 8.4.76 that in cases where a government servant at the time of absorption has less than 10 years service and is not entitled to pension, the question of proportionate pension will not



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arise; he will only be eligible to proportionate service gratuity in lieu of pension and to retirement gratuity based on length of service.

7. From the above facts, it is clear that since the applicant had not put in 10 years qualifying service in the government, he is not entitled for pro-rata pension as claimed by him. For the reasons stated above, the OA is devoid of merit and is accordingly dismissed. No order as to costs.


(M.P. Singh)
Member(A)

/gtv/