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19

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. No. 1356/95

Decided on 22.7.1998

S.V. Bhopardikar
(By Advocate: Shri Gyan Prakash)

Applicant

Vs.

U.O.I. & Ors.
(By Advocate: Shri V.S.R. Krishna)

Respondents

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HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

1. To be referred to the Reporter or not? Yes
2. Whether to be circulated to other Benches of the Tribunal? Yes


(S.R. ADIGE)
Vice Chairman (A)

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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No. 1356 of 1995

New Delhi, dated this the 22nd July, 1998

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

Shri S.V. Bhopardikar,
S/o Shri V.G. Bhopardikar,
R/o 4/75, W.E.A.,
Karol Bagh,
New Delhi-110005.

.... APPLICANT

(By Advocate: Shri Gyan Prakash)

Versus

Union of India through

1. The Secretary,
Ministry of Industry,
Dept. of Industrial Development,
Govt. of India,
Udyog Bhawan,
New Delhi.
2. Secretary,
Andhra Pradesh Electricity Board,
Vidyut Soudha,
Khairatabad,
Hyderabad-500462.

.... RESPONDENTS

(By Advocate: Shri VSR Krishna)

7

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

Applicant seeks a direction to respondents to count the service rendered by him in the Andhra Pradesh Electricity Board from 1.1.62 to 31.3.63 as qualifying service of the applicant for pensionary and retirement benefits and refix his pension and other retiral benefits with consequential benefits including interest and pending dues.

2. We have heard Shri Gyan Prakash for applicant and Shri VSR Krishna for respondents.

3. Respondents in their reply had taken the preliminary objections that ^{the} O.A. was hit by limitation as well as lack of jurisdiction. However, applicant's counsel Shri Gyan Prakash has invited our attention to the Hon'ble Supreme Court's judgment in M.R. Gupta Vs. UOI 1995 (2) ATJ 567 as well as R. Sangeeta Rao Vs. UOI ATJ 1990 (1) 120 in which it has been held that issues such as fixation of pension, are a continuing cause of action. He has ^{also} invited our attention to CAT Mumbai Bench decision in Dr. H.D. Ramaiah Vs. UOI 1996 CAT ATJ (1) 174 wherein it has been held that it was open to applicant to pursue the question of counting of past service for pensionary benefits any time prior to

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superannuation. Under the circumstances the preliminary objection advanced by respondents are rejected.

4. In regard to the only objection raised by the Respondents' counsel Shri Krishna, ^{namely} that there is an interruption of a few days, between applicant's demitting the office in the A.P. Electricity Board and his joining duty under GOI. However, Shri Krishna has himself stated that under Rule 26(3) CCS (Pension) Rules, the competent authority is empowered to condone the same and treat the period as leave of kind due. In this connection our attention has been invited to D.G.T.D's order dated 20.1.84 (copy on record) treating the service rendered by Shri Y.H. Raut, Asst. Development Officer (Engineering) under the M.P. & Maharashtra State Governments from 3.11.53 to 3.8.62 as qualifying service for the purpose of pensionary benefits after excluding the period of 6 days (4.8.62 to 9.8.62) between the service rendered by him under the M.P./Maharashtra State Governments and his joining duty under Govt. of India. Shri Gyan Prakash has prayed that similar orders could be issued in the present case also.

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5. We see no good reason to disallow this prayer and accordingly dispose of this O.A. with a direction to respondents to count the period from 1.1.62 to 31.3.63 rendered by applicant in the A.P. Electricity Board as qualifying service for pensionary and retirement benefits, and treat the intervening period between his demitting office in the A.P. Electricity and his joining the Govt. of India in accordance with Rule 26(3) CCS (Pension) Rules read with the decision taken in Shri Y.H. Raut's case (Supra). These directions should be implemented within two months from the date of receipt of a copy of this order, together with calculation of payment of arrears to the applicant. The prayer for interest on the arrears of is rejected as no good grounds have been advance to grant the same.

6. Applicant has also pressed certain other reliefs in the O.A. relating to his claim for arrears of pay and allowances in respect of service rendered by him against the various posts in the Govt. of India. However upon it being pointed out to Shri Gyan Prakash that this relief

24

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is not related to the main relief pressed in the O.A. and discussed above, he prays for and is allowed permission to withdraw the same with liberty to agitate the same separately in accordance with law if so advised.

7. This O.A. stands disposed of in terms of
Para^{and 6} 5 above. No costs.

Lakshmi Swaminathan

(MRS. LAKSHMI SWAMINATHAN)
MEMBER (J)

/GK/

S.R. Adige

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