

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENOV

OA No. 248 3/95

New Delhi: Dated this 23rd day of December, 1999.

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

HON'BLE MRS. LAKSHMI SWAMINATHAN MEMBER(J)

R. C. Mathur,
S/o Late Shri S.M.Mathur,
R/o C/o Shri Dr. B.P.Mathur,
DC-II/ 248-A, Vikas Puri,
New Delhi,
last employed as Principal Scientific Officer
in Controllerate of quality Assurance (Weapons),
Ministry of Defence(DSQA),
Jabalpur(MP) ... applicant,

(By Advocate: Shri N. S. Verma)

Versus

1. Union of India through
The Director General of quality Assurance,
Govt. of India,
Ministry of Defence,
Department of Defence Production & Supplies,
Directorate General of quality Assurance,
DHQ PO
New Delhi .
2. The Chief Controller of Defence Accounts(Pension),
Allahabad (UP).
3. The Controller of quality Assurance (Weapons),
Controllerate of quality Assurance (Weapons),
Jabalpur (MP).
.... Respondents.

(By Advocate: Shri A.K. Bhardwaj).

ORDER

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

Applicant seeks the counting of his service from 18.6.65 to 17.2.69 in Research Designs & Standards Organisation in Railway Ministry towards his pensionary benefits consequent to his retirement from Govt. service.

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W.O.P. 31.7.94.

2. Admittedly applicant joined RD & D as Research Asstt. (Metallurgical) on 18.6.65. In response to an advertisement he applied through proper channel for the post of Sr. Scientific Officer Gr.II in Defence Ministry on 28.5.68, and upon being selected by UPSC was appointed as Sr. S.O. Gr.II on 19.2.69, upon being relieved from RD&D on 17.2.69. Eventually he retired from service on superannuation on 31.7.94. Applicant claims that the entire service from 18.6.65 to 17.2.69 and from 19.2.69 to 31.7.94 is pensionable, as both the departments where he worked are pensionable departments. He relies upon Rules 13 and 30 of the CCS(Pension) Rules.

3. We have heard both sides.

4. Rule 13 reads as follows;

"13. Commencement of qualifying service:

Subject to the provisions of these Rules, qualifying service of a Govt. servant shall commence from the date he takes charge of the post to which he is first appointed whether substantively or in an officiating or temporary capacity.

Provided that the officiating or temporary service is followed without interruption by substantive appointment in the same or another service or post.

Provided further that

- (a).....
- (b)..... "

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5. Rule 3D CCS (Pension) Rules is available at Annexure-RII.

6. Respondents state that applicant retired from one of the posts referred to in Rule 3D CCS (Pension) Rules and 5 years were added to his actual period of service as qualifying service for pension as it was more beneficial. They state that if his former service from 18.6.65 to 17.2.69 (which is less than 5 years) was allowed to count, the applicant would not have been eligible for the benefit of 5 years' service.

7. The point for adjudication is whether applicant is entitled to count the period from 18.6.65 to 17.2.69 in addition to the five years period which have been added to his qualifying service by respondents.

8. For the reasons contained in the Hon'ble Supreme Court's judgment dated 28.10.93 in UDI & another Vs. S. Dharmalingam JT 1993(6)SC 403 relied upon by applicant's counsel Shri Verma, which fully covers the facts and circumstances of the present case, we are of the view that applicant cannot be denied the counting of her service from 18.6.65 to 17.2.69 as qualifying service for purposes of pension consequent to his retirement on superannuation w.e.f. 31.7.94.

9. Under the circumstance this OA succeeds and is allowed to the extent that respondents are directed to recalculate applicant's pensionary benefits after counting the period from 18.6.65 to 17.2.69 as qualifying service towards pensionary benefits and pay revised pensionary benefits to applicant along with arrears as

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expeditiously as possible and preferably within 3 months from the date of receipt of a copy of this order.
No costs.

Lakshmi Swaminathan

(MRS. LAKSHMI SWAMINATHAN)
MEMBER(J)

S. R. Adige

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

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