

(7)

Central Administrative Tribunal
Principal Bench

O.A. No. 52 of 1995

New Delhi, dated this the 6th JANUARY 1998

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE MR. RATAN PRAKASH, MEMBER (J)

1. Shri K.S. Pathania,
S/o late Shri P.R. Pathania
R/o Staff Qr. No. 8, Akbar Bhawan,
Chanakyapuri, New Delhi-110021.
2. Shri Harish Basnotra,
S/o Shri K.D. Basnotra
3. Shri S.P. Kalra,
S/o Shri P.D. Kalra
4. Shri Pal Singh,
S/o Shri Nand Singh
5. Shri Satguru Saran,
S/o Shri R.S. Tiwari
6. Mrs. Anita Khann
W/o Shri N.K. Khanna
7. Shri Ram Prasad,
S/Shri Balbir Singh
8. Shri Amar Lal,
S/o Shri Mishru Lal
9. Mrs. Pooja Kumar
W/o Shri Mahendra Kumar
10. Shri Roop Lal,
S/o Shri Maku Lal
11. Shri K.K. Roy,
S/o Shri S.D. Roy
12. Ms. Ajit Kaur
D/o late S. Pradhan Singh
13. Mrs. Krishna Devi,
W/o L. Shri Gopal Selwan
14. Shri Mohd. Ramzan,
S/o late Shri Abdul Gani. Applicants

(By Advocate: Dr. D.C. Vohra)

Versus

Union of India through the
Secretary, Ministry of External
Affairs,
New Delhi-110011.

... Respondents

(By Advocate: Shri N.S.Mehta)

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ORDER

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

Heard both parties.

2. The only surviving relief relates to counting of applicants' services rendered in ITDC for determination of their retiral benefits.


3. It is true that the Expert Committee in its report (Ann. XII) had recommended that applicants should be given six months to exercise their option either to get their earlier qualifying service with ITDC counted for pensionary benefits after refunding terminal benefits given to them at the time of closure of the Hotel along with interest thereon, or to get these benefits on the basis of the length of their present service in the Ministry after the closure of the Hotel, but this recommendation was not accepted by respondents for the reason given in their letter dated 16.9.93 (Ann. XIV), namely that the provision of DP&T's O.M. dated 29.8.84 (Ann. XVI) are not applicable to PSU Employees.

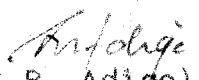
4. Dr. Vohra has relied on Para 3(b)(ii) of that O.M. in support of his claim, but in view of the clear language of Para 4 of that O.M. stating that Autonomous body includes a Central Statutory body or a Central University, but not a P.S.U., aforesaid para 3(b)(ii) does not help the applicants who were ITDC employees, which admittedly is a P.S.U.

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5. Dr. Vohra then argued that applicants had not been absorbed in the Govt. of India on their option, and furthermore that the aforesaid O.M., dated 29.8.94 was not applicable to his clients. He was, however, unable to indicate which specific O.M. or circular of respondents was applicable in the facts and circumstances of the present case on the basis of which the relief sought could be allowed, although he was given time till 17.12.98 to do so in writing. He sought for a direction from us to respondents to examine which circular/O.M. could be made applicable to applicants to grant them the relief claimed, but manifestly no such direction of a roving nature can be given to respondents. It is for applicants to establish their case and in the facts and circumstances of the present they have not succeeded in doing so. Respondents' letter dated 16.9.93 which is in consonance ^{with} DP&T's O.M. dated 29.8.84, cannot ^{therefore} be said to be illegal, irregular, improper or indeed suffer from any infirmity, to warrant judicial interference.

6. In the result this O.A. is dismissed, with the observation that in the event applicants are able to identify any rule/instruction which supports their claims, it will be open to them to represent to respondents, if so advised. No costs.


(Ratan Prakash)
Member (J)
/GK/


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