

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

OA No. 2668 of 1996

At New Delhi, this the 13th day of January, 1998.

**Hon'ble Mr. N. Sahu, Member (A)**

Lakhi Ram Rathee  
House No.5, Sector-15  
Sonepat (Haryana)

...Applicant

(By Advocate : Sh. S. R. Sharma)

Versus

1. The Govt. of NCT Delhi through the Secretary (Education Department) Old Secretariat Delhi
  2. The Director of Education Delhi Administration Delhi
  3. Dy. Director of Education Delhi Administration Delhi
  4. Dy. Controller of Accounts Director of Education, Delhi Administration, Delhi
  5. The Govt. of Haryana, through the Secretary (Education Deptt) Secretariat, Chandigarh
  6. The Director of Secondary Education, Haryana, Chandigarh
- ... Respondents

(By Advocate : Sh. Raj Singh and Sh. Jasbir Malik)

ORDER (ORAL)

By Sh. N. Sahu, Member (A) -

The prayer in this OA is for a direction to the respondents to fix and release the due pension with 18% interest forthwith with immediate effect along with other consequential benefits like leave encashment and gratuity. The applicant joined on 10.01.1958 in the Department of Education, Govt. of

(1)

Delhi. He worked as Headmaster, Govt. Boys Higher Secondary School, Pataudi House, Darya Ganj, Delhi. The admitted fact is that he was a permanent employee of Directorate of Education, Delhi Administration. In response to an advertisement in 1980 he joined the Haryana Government as Adult Education Officer through the Haryana Public Service Commission. On his appointment under the Haryana Govt. he was allowed to proceed on deputation for a period of two years w.e.f. the date of his relief from the School by an order dated 15.09.1980. By another order dated November, 1980 the lien of the applicant was retained for two years or till such time as he is permanently absorbed, whichever is earlier. He worked as District Adult Education Officer, Deptt. of Education, Govt. of Haryana till his date of superannuation i.e. 30.11.1988.

2. The respondents after notice state that the liability for pension including gratuity is of the Govt. to which the Govt. servant permanently belongs at the time of retirement. Rule 14(2)(b) of CCS Pension Rules. His papers were referred to the Accounts Officer, Director of Education, Delhi Administration, Delhi by the Director of Secondary Education Haryana, Chandigarh on 23.08.1993 requesting him to settle his pension case as he is a permanent employee of the Directorate of Education and has put in more than 20 years of service under the Delhi Administration. His papers were returned by the

Principal, Govt. Boys High Secondary School (refer Annexure-F) letter of Directorate of Secondary Education in this regard. As things stood thus, the matter was referred to AG, Haryana. He gave a finding that the applicant has not been permanently absorbed in Haryana Govt. He was a permanent employee of the Delhi Administration and his pension papers have to be settled by the Delhi Administration alone. The applicant was stated to be on deputation with the State of Haryana (Respondent No.6). It is admitted by Respondent No.6: "the State of Haryana is only to account for leave encashment and gratuity etc. for the period the applicant served the State as permissible by the law to the parent department." Accordingly, his papers were sent by the Govt. of Haryana to the Chief Accounts Officer, Directorate of Secondary Education by a letter dated 28.12.1994. Till now, the applicant had not received his pension either from the Delhi Administration or from the Govt. of Haryana. He filed this OA on 09.12.1996.

3. Learned counsel for respondents 1 to 4 submits that the applicant had not shown any interest in pursuing his case after his retirement on 30.11.1988 from Govt. of Haryana. He says that the matter is pretty old and the OA is barred by limitation. It is next submitted that the Government has collected all the papers and is making a reference for vigilance clearance and they hope to finalise his pension. He prays for 6 months' time for the same.

*[Signature]*

13

4. Learned counsel for the Govt. of Haryana (Respondent No.5 and 6) states that the applicant did not join as a pensionable employee. It was a temporary scheme for a specified period. There was no absorption order in this regard. The claim for pension has no legal foundation because under clause 4 of the advertisement of Haryana Public Service Commission dated 12.12.1979: "the posts are temporary but likely to continue for a period of five years. The posts are non-pensionable, for the present.....The services....can be terminated on one month's notice on either side."

5. I have heard the counsel for both sides. The basic facts reveal that the applicant has put in more than 20 years of service under the Delhi Administration, Education Department, Directorate of Education. He is under law entitled to pension, if he has put in 10 years of qualifying service. Under the latest decision of Hon'ble Supreme Court in S.R. Bhanrala Vs. Union of India - (1996) 10 SCC 172, there is no limitation involved in making claims relating to retirement benefits. It does not impress me when the counsel stated that the employee having been allowed to go on deputation to the Govt. of Haryana, the responsibility of the Delhi Administration to calculate pension from the service records available to them has ceased. As the advertisement shows, it was a temporary appointment, non-pensionable and terminable at one month's notice. There is no order of permanent absorption in Haryana Govt. These aspects should have persuaded the

*Ques*

Respondents No.1 to 4 to settle his pension from the very date of his superannuation. They are bound by law, even without an application of the applicant, to calculate pension on the date of his retirement or on the date on which, according to the official respondents, Delhi Administration, his service or lien has ceased with them and they are bound by law to compute and pay his pension along with other retirement benefits. Right to pension is a statutory right and not a bounty to be disbursed at the whims and fancies of the employer. The respondents are found not discharging their duty to an employee who has rendered more than two decades of service with them. The responsibility has not been discharged by the casual returning back of the reference of the Govt. of Haryana when they pointed out the history of the applicant's earlier employment and requested the respondents to compute and clear the pension papers. That was in 1993. Five years later, the applicant is no better than when he began his round of litigation.

6. I have therefore, no other alternative except to direct Respondents No.1 to 4 to ensure that the pension and other retirement benefits are computed and paid to the applicant within a period of three months from the date of receipt of a copy of this order. As under law there is no need for an employee to apply and remind his employer for taking what is rightfully his due by way of pension and retirement benefits, I think it is a very fit case for awarding interest. In respect of the rate of interest, I respectfully follow the law laid-down by the Hon'ble

Supreme Court in O.P. Gupta Vs. Union of India & Ors. - 1987(5) SLR SC 288. It shall be only 12% per annum. This interest shall be calculated with effect from three months from the date of retirement, namely, 30.11.1988. That is, the interest shall be calculated w.e.f. 01.03.1989, till the actual date of payment on all retirement dues including arrears of pension.

7. Respondent No.1, Secretary, Education Department shall conduct an inquiry and fix responsibility on the official(s) as to how and why pension and other retirement benefits of such an employee had been ignored and kept in cold storage for such a long time thereby fastening on the public exchequer such a liability by way of interest and shall take appropriate action in this regard. If respondent No.1 finds any culpable delay on the part of any official or officials, the loss to the exchequer by way of interest shall be recovered from the salary of the concerned official. A report in this regard shall be submitted by Respondent No.1 through counsel to the Registrar of the Tribunal.

8. With regard to the benefits he hopes to secure from the Govt. of Haryana, the applicant is free to pursue his own remedies in accordance with

(P)

whatever legal rights he perceives and is advised in this regard.

9. OA is disposed of as above.

*Narayanan*  
(N. Sahu)  
Member (A)

/Kant/