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Central Administrative Tribunal
Principal Bench

O.A.No.454/96

Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this the 13th day of October, 1997

Sunil Kumar Shah
s/o late Shri P.N.Shah
aged 39 years
r/o 26, ESIC Colony
Sector 56, Noida (UP).

... Applicant

(By Shri K.B.S.Rajan, Advocate)

Vs.

1. Union of India
through Secretary
Ministry of Labour
Shram Shakti Bhawan
New Delhi - 110 011.
2. The Director General
Employees State Insurance Corporation
Kotla Road
New Delhi - 110 002.
3. State of Jammu & Kashmir
through its Secretary
Agriculture Production Department
Government of India
Jammu & Kashmir
Civil Secretariat
Jammu.

... Respondents

(By Shri G.R.Nayyar, Advocate for Respondents No.1 & 2)
None for Respondent No.3

O R D E R (Oral)

The applicant submits that he joined in service in Agriculture Production Department, Civil Secretariat, Jammu & Kashmir on 21.2.1979, On 10.7.1982 ~~and~~ he was transferred to the Directorate of Agriculture Kashmir. On 10.12.1986 he was again transferred to the Chief Agriculture Officer Kupwara. On the same date, however Respondent No.2, i.e., the Director General, Employees State Insurance Corporation, Kotla Road, New Delhi offered him the appointment as Assistant Regional Director/Mgr. Gr.I/Section Officer/Deputy Accounts Officer. After correspondence between State Government and ESI, permission was finally granted to join the ESI vide order dated 16.10.1987 as Assistant Regional Director in ESI Corporation. The applicant

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states that he has been requesting the Secretary, Agriculture Production Department, Respondent No.3 that his pensionary liabilities for the purpose of counting the services rendered in Jammu & Kashmere from 5.3.1979 to 31.10.1987 be discharged in terms of Paragraph 3(a) of the Ministry of Home Affairs O.M. dated 29.8.1984 (Annexure II) to enable the ESI Corporation to count the past government service as qualifying service for the purpose of pension in the Corporation. Further representations were made on 12.1.1996 and 19.1.1996 but the State Government has made no response. He has now come before this Tribunal seeking a direction to call for the records relating to the counting of past service of the applicant kept by Respondent No.2 and hold that the applicant is entitled to the benefits of past services to be counted in the Corporation for the purpose of terminal benefits, etc.

2. On notice, counter was filed by Respondent No.2. However, despite service neither reply has been filed nor anyone has appeared at any of the hearings on behalf of Respondent No.3. Since none appeared on behalf of Respondent No.3 despite repeated opportunities, the OA is being heard ex-parte in so far as Respondent No.3 is concerned.

3. I have heard the learned counsel for the applicant as well as Shri G.R.Nayyar, learned counsel for Respondent No.2. The stand of Respondent No.2 is that in case the State Government certifies the past service of the applicant with them and also subscribes the pensionary contributions, Respondent No.2 will count the service rendered by the applicant towards his pensionary and terminal benefits.

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4. Since the whole matter regarding the determination of the terminal benefits vis-a-vis counting the past service of the applicant is being delayed for lack of any response from the State Government, therefore, this OA is disposed of with the following directions:

A) Respondent No.3, State of Jammu & Kashmir, through its Secretary, Agriculture Production Department, Government of Jammu & Kashmir, Civil Secretariat, Jammu will verify the past service of the applicant and discharge their liability in respect of pensionary contributions in terms of OM dated 29.8.1984, Annexure-II and letter dated 20.3.1987, Annexure-IV within a period of two months from the date of receipt of a copy of this order.

B) Respondent No.3 will further inform Respondent No.2, i.e., The Director General, Employees State Insurance Corporation, Kotla Road, New Delhi - 110 002 of their decision; and if Respondent No.3 is liable to pay the pensionary contributions, then to transmit the same to Respondent No.2 within a period of three months thereafter.

OA is disposed of as above. No costs.


(R.K. AHOOJA)
MEMBER (A)

/rao/