

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No.490 of 1996

Dated this 9th day of December, 1999

HON'BLE MR.JUSTICE ASHOK AGARWAL, CHAIRMAN
HON'BLE MRS. SHANTA SHASTRY, MEMBER (A)

Dinesh Kumar Paliwal
S/o Shri R.P. Paliwal
R/o C-39 Nanakpura
New Delhi.

... Applicant

(By Advocate: Shri U. Srivastava)

Versus

Union of India, through
Secretary
Department of Education
M/o Human Resource Development
Shastri Bhawan
New Delhi.

... Respondents

(By Advocate: Shri Vijay Mehta)

O R D E R (Oral)

Mrs. Shanta Shastri, M(A):

The applicant was appointed as Assistant Educational Adviser (General) in the Ministry of Human Resource Development, Department of Education on 15.10.1992 on the recommendation of the UPSC. The applicant took charge on 12.11.1992. Before taking up this appointment, the applicant was working as a Lecturer in the Ministry in Kishan Lal Public College, Rewari, Haryana, affiliated to Maharishi Dayanand University, Rohtak. After his appointment, his pay was fixed in accordance with the rules applicable to him. The applicant represented in regard to his pay fixation and later on the benefit of protection of pay was extended to him on 10.5.1994. On 27.4.1994, the applicant made a representation to the respondents that the

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service rendered by him in the Kishan Lal Public College, Rewari be counted for pensionary benefits. He had put in almost 11 years of service from 16.8.1981 to 11.11.1992 in that College. This request of the applicant was considered and rejected by the respondents in consultation with the Department of Personnel & Training. The applicant has, therefore, approached this Court for redressal of this grievance.

2. The grounds for rejection are that the applicant failed to establish that the College has been declared as an Autonomous Body of the State/Central Government either through Act of the Legislature/Parliament or otherwise. There is no evidence to show that this College has been accepted as an Autonomous Body. There is nothing to show that this College is under the control of the State Government. Even the grant being received by the College is only in respect of the salary ~~extent~~ and that too to the extent of covering deficit.

3. The pensionary benefits of Central Government employees are regulated by the provisions of CCS(Pension)Rules,1972. These rules clearly specify the types of service rendered by a Government servant which qualifies for pensionary benefits. According to Rule 14 of the said Rules, the service rendered outside the Central Government does not count for pension in the Central

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Government. However, keeping in view the fact that this restriction would affect a large number of employees moving over to State Governments and Autonomous Bodies under Central or State Governments or vice versa, the Department of Personnel and Training in the Government of India introduced detailed guidelines vide their O.M. dated 29.8.1984 read with O.M. dated 7.2.1986 which regulate the counting of past service rendered by the employees in State Governments or Central/State Autonomous Bodies for the purpose of pensionary benefits. These orders were issued on the basis of reciprocal arrangements entered into by the Government of India with the various State Governments. These guidelines commonly known as 'mobility orders' provide that benefit of counting of past service will be admissible in four cases of mobility, i.e. mobility between (i) Central Government (ii) State Government, (iii) Central Autonomous Body and iv) State Autonomous Body. The meaning of an Autonomous Body under the Central Government has been defined in para-4 of the O.M. dated 29.8.1984 (R-IX) and is further elaborated in the Department of Pension and Pensioners' Welfare O.M. dated 31.3.1987. According to these orders:

"A Central Autonomous body is generally a non-profit making organisation which is financed wholly or substantially from cess or Central Government grants. 'Substantially' means that more than 50 per cent of the expenditure of the autonomous body is met through cess or Central Government grants. An Autonomous body

may be a society registered under the Societies Registration Act, 1860 or a statutory body or a Central University having its own Governing Council whose memorandum of association/by-laws etc., contain provision for complying with Government directives for carrying out its business in achieving the objectives for which the organisation is established." The same analogy can be reasonably extended for a State Autonomous body.

4. In order to avail the benefit of past service it^{is} therefore, essential for the applicant to establish that the Kishan Lal Public College, Rewari fulfils all the conditions laid down for an institution to be treated as an Autonomous Body of the State Government.

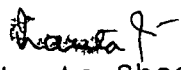
5. In the instant case, the applicant has come from Kishan Lal Public College from the State of Haryana. The learned counsel for the applicant avers that it is an Autonomous Body as it fulfils the various conditions for being treated as an Autonomous Body as stipulated under the ^{Mobility orders of 24.8.1994} GGS(Pension) Rules. This College is getting grants towards salaries to the extent of deficit. A perusal of the accounts of the College shows that the College has been getting at least two-third of its expenditure from the State Government towards meeting the expenditure on salaries. Thus the first condition for being an Autonomous Body is being fulfilled by this College. Our attention has been drawn to a reply from the said College (Annexure R-12 of the counter) wherein it has been

clarified that the State Government meets 95% of the total salary bill of the College. On the recommendations of the Central Government, the State Government announces D.A. to its employees on the Central Government's D.A. pattern which is implemented by the College for its employees. According to us, since major conditions regarding the grants being given by the State Government of more than 50% of the requirements of the College is fulfilled, we see no reason why the applicant should be denied the benefit of his service in the College for purposes of pension.

6. We are of the view that prima facie, the applicant has a very strong case. We, therefore, direct the Central Government to consider the request of the applicant afresh in the light of the observations made by us. The applicant may be given an opportunity of being heard, if he so desires. This may be done within a period of six months.

7. The OA is disposed of with the above observations. We do not order any costs.


(Ashok Agarwal)
Chairman


(Mrs. Shanta Shastri)
Member(A)