

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

(13)

O.A. No. 1379/97

Decided on 20.7. 1998

P.M. Mehta
(By Advocate: Shri D.R. Gupta)

Applicant

Vs.

U.O.I. & Anr.
(By Advocate: Shri KCD Gangwani)

Respondents

CORAM

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

1. To be referred to the Reporter or not? Yes
2. Whether to be circulated to other Benches of the Tribunal? Yes

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

(14)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No. 1379 of 1997

New Delhi, dated this the 20 July, 1998

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

Shri P.M. Mehta,
S/o Shri M.M. Mehta,
R/o 128-C, DDA Flats (MIG),
Rajouri Garden,
New Delhi-110027.

..... APPLICANT

(By Advocate: Shri D.R. Gupta)

Versus

1. Union of India through
Secretary,
Dept. of Personnel & Training,
New Delhi.

2. The Chairman,
Bureau of Industrial Costs & Prices,
7th Floor, Lok Nayak Bhawan,
Khan Market,
New Delhi-110003.

..... RESPONDENTS

(By Advocate: Shri KCD Gangwani)

JUDGMENT

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

Applicant impugns respondents' letter dated 21.5.97 (Ann. A-1) and seeks inclusion of the period 9.11.71 to 31.12.73 as qualifying service for pensionary benefits.

2. Applicant who joined Indian Drugs & Pharmaceuticals Ltd. (IDPL), a Central Public Sector Undertaking was admittedly deputed to Bureau of Industrial Costs & Prices (BICP) on 9.11.71 and continued in that capacity till 21.12.73. The terms and conditions of the deputation are contained in letter dated 15.2.72 (Ann. A-III). Thereafter on the basis of selection by UPSC applicant was appointed in BICP

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w.e.f. 1.1.74 (Ann. A-V) from where he eventually retired upon attaining the age of superannuation on 31.3.97 (Ann. A-VI). Applicant contends that the period 9.11.71 to 31.12.73 should also count towards qualifying service for his retiral benefits.

3. We have heard applicant's counsel Shri D.R. Gupta (who has also filed written submissions) and respondents' counsel Shri KCD Gangwani.

4. The first ground taken by Shri Gupta is that by order dated 8.8.75 (Ann. A-IV) applicant's ad hoc service while on deputation prior to 1.1.74 was allowed to be counted towards his probationary period, and therefore applicant's appointment in BICP dates back to 9.11.71. We are unable to accept this argument. It is always open to respondents to relax the period of probation and merely because respondents by way of concession permitted the period of applicant's service on deputation in BICP to be counted towards his probationary period upon his regular appointment there, cannot per se change the character of the deputation period into something else.

5. Secondly it has been emphasised that the entries in applicant's service book and the certificate verifying his service issued in terms of Rule 32 CCS (Pension) Rules (Ann. A-VII)

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counted the aforesaid period from 7.11.71 to 31.12.73 towards his qualifying service, and this has now to be treated as final. Respondents have admitted that this certificate was issued in error and at the time of its issuance, it was lost sight of that the above period was a period spent on deputation as the aspect of his being on deputation during this period was not mentioned in the Service Book. In view of the fact that applicant himself admits in Para 4.2 of the O.A. that he was on deputation in BICP during the period 7.11.71 to 3.12.73, no advantage can accrue to him from a manifestly incorrect certificate issued by respondents.

6. Thirdly reliance has been sought to be placed on the Hon'ble Supreme Court's ruling in K. Mahadevan & Anr. Vs. UOI & Ors. (1987) 5 ATC 91 but the facts in that case are entirely different. Shri Mahadevan who was working in a State Govt. came on deputation to the Centre. In the present case, applicant who was working in a Central PSU came on deputation to the Centre. Hence that judgment has no application to the facts of the present case.

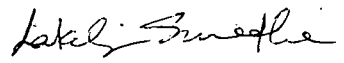
(17)

7. Fourthly reliance has been placed on Rule 14(2) CCS (Pension) Rules, 1972 but the same has no application in the present case as during the period 9.11.71 to 31.12.73 applicant was actually a substantive employee of a non-pensionable establishment i.e. IDPL which is a CPSU.

8. Fifthly applicant claims the benefit of DOPT O.M. dated 29.8.84 (Ann. R-4). That O.M. also has no application to the facts and circumstances of the present case as it relates to transfer of Central Govt. servants to Central Autonomous Bodies and vice versa while the present case is one of deputation from a CPSU to the Central Govt. Para 4 of O.M. dated 29.8.84 explicitly excludes CPSUs from Central Autonomous Bodies and this position has been reiterated in DOPT'S O.M. dated 13.9.96.

9. Lastly the equitable jurisdiction of the Bench has been sought to be invoked. Even if this Court were a Court of Equity, it is the law and the rules which would eventually have to prevail. In the present case neither does the law nor do the rules support the applicant's case.

10. The O.A. is therefore dismissed. No costs.


(Mrs. LAKSHMI SWAMINATHAN)
MEMBER (J)
/GK/


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