

Central Administrative Tribunal
Principal Bench

O.A.No.2786/97

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

New Delhi, this the 13th day of August, 1998

Shri Y.Jung Mohil
resident of Khillan Estate
Hospital Round
P.O. - Nahan
Himachal Pradesh - 173 001.
last employed in Aviation Research Centre
Headquarters, East Block-V
R.K.Puram, New Delhi
as Assistant Technical Officer
now retired.

... Applicant

(By Shri A.M.Dattia, Advocate)

Vs.

1. Union of India through
Cabinet Secretary
Govt. of India
South Block
New Delhi - 110 001.
2. The Principal Director
Directorate General of Security
Cabinet Secretariat
Govt. of India
East Block-V
R.K.Puram
New Delhi - 110 066.
3. The Director
Aviation Research Centre
Directorate General of Security
Cabinet Secretariat
Govt. of India
East Block-V
R.K.Puram
New Delhi - 110 066.
4. The Director of Accounts.
Office of the Director of Accounts
Cabinet Secretariat
East Block - IX, Level - VII
R.K.Puram
New Delhi - 110 066.
5. The Deputy Director of Accounts
Cabinet Secretariat
Office of Director of Accounts
East Block - IX, R.K.Puram
New Delhi - 110 066.
6. The Senior Assitant Director of Accounts
Office of the Director of Accounts
East Block -IX, R.K.Puram
New Delhi - 110 066.

... Respondents.

(By Shri R.P.Aggarwal, Advocate)

O R D E R

The petitioner was recruited in Indian Navy on 14.9.1954 and was discharged after ten years on 13.9.1964. He was thereafter re-employed in the Aviation Research Centre (ARC), Cabinet Secretariat on 11.12.1964 in the rank of Assistant Central Intelligence Officer-II and served there till his superannuation, i.e., 31.3.1995. From 14.9.1964 to 13.9.1974 the petitioner was a member of Indian Naval Reserve Fleet. On his retirement from ARC, he was granted Gratuity, Commutation of Pension and reservist pension. His grievance is that though he had put in more than 30 years service in the ARC only 20 and half years were considered for the purposes of retirement dues and the period during which he was on the strength of Indian Naval Reserve Fleet no credit was given for this purpose though to all purposes he was a full time employee of ARC.

2. That the period spent on Fleet Reserve with reservist pension will not be counted towards service pension is no longer res integra. The Tribunal has already decided the issue in K.D.Mitha and Others Vs. Union of India and Others in OA No.1529/96 and OA No.747/97, Shri M.S.Narula & Others Vs. Union of India and Others, by its orders dated 27.11.1997, holding that the period spent with the Naval Reserve could not be counted towards civil pension at the same time.

3. In the present application, the applicant has sought to raise some additional points. Firstly, the learned counsel for the applicant has contended that the CCS (Pension) Rules came into force on 1.6.1972. It is

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in these Rules, (Rule 7(1)) that it is provided that a Government servant shall not earn two pensions in the same service or post at the same time or by the same continuous service. On the other hand, it was contended that these Rules are not applicable in the present case as the applicant joined ARC in 1964, much before the promulgation of the CCS (Pension) Rules. I find no substance whatsoever in this argument. The retirement benefits are being claimed by the applicant in terms of these very Pension Rules. He cannot in one respect deny their applicability and on the other claim its benefits. Even otherwise Rule 2 of the Pension rules provides that the Pension Rules will apply to all Government servants including civilians working in the Defence services. Rule 4 provides that it would be open to the Government servants within six months to elect to be governed by the Pension Rules to which he was subject immediately before the date of his transfer. Since there is no contention that the applicant had opted to be governed by any other rules previously applicable to him prior to the promulgation of the 1972 Pension Rules, he cannot now say that he is not governed by the 1972 Rules.

4. It has then been contended by the learned Counsel for the applicant that there is a violation of applicant's rights under Article 14 of the Constitution. However, the applicant has failed to show as to how he has been discriminated. The only claim is that he is adversely placed compared to those who have served lesser number of years in Government service. The credit has been given to him for only 20 and half years though he has served 40 years in the military and the civil services combined and as a result he would be receiving

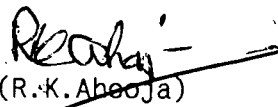
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lesser pension than those who have served for lesser period in the civil service. I find this argument is totally misconceived. The applicant through his reserve service has been able to count half of it towards his qualifying service in the Navy for military pension. According to the respondents he is earning a minimum of Rs.1275/- for naval pension because of his reservist service. In other words apart from his military pension for his 10 years active service and 10 years of reservist service, he has also earned civil pension for the 20 and half years of civil service. He has thus obtained full credit for his military and civil service by earning two pensions. In any case the applicant has not exercised his option to count his military service towards his civil pension. A division of the qualifying service between two pensions has taken place at his own choice, presumably because he is gainer thereby. There is thus no question of any discrimination.

5. For the aforesaid reason, I find no merit whatsoever in the OA which is accordingly dismissed. No costs.


(R.K. Ahooja)
Member(A)

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