

Central Administrative Tribunal
Principal Bench
New Delhi

O.A. No. 67/97

Decided on 19.11.98

Shri Mahavir Singh

.... Applicant

(By Advocate: Shri S.S.Tiwari)

Versus

Govt. of NCT, Delhi

.... Respondents

(By Advocate: Shri G. Kathplia)

CORAM

HON^{BLE} MR. S.R. ADIGE, VICE CHAIRMAN (A)

1. To be referred to the Reporter or Not? YES
2. Whether to be circulated to other outlying benches of the Tribunal or not ? No.

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

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O. A. No. 67/97

New Delhi: Dated this the 19th day of November, 1998.

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

Shri Mahabir Singh,
s/o Shri Bhagat Singh,
R/o Vill. Bonthala,
P.O. Loni, Distt. Ghaziabad (UP) ... Applicant.

(By Advocate: Shri S. S. Tewari)

Versus

Govt. of NCT of Delhi
through
Secretary,
Directorate of Education,
Delhi Administration,
Old Secretariat,
Delhi.

2. The Deputy Director of Education,
Distt. North East 'B',
Block Yamuna Vihar,
Delhi Respondents.

(By Advocate: Shri G. Kathpalia)

ORDER

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

Heard both sides.

2. Admittedly the only surviving grievance is in regard to counting of applicant's services from 8.7.59 to 3.10.69 in K.R. Inter College, Chirori (UP) for determination of his retiral benefits.

3. Respondents in their reply to the OA have rejected the claim because they contend that applicant

- i) did not submit technical resignation from K.R. Inter College, Chirori U.P.
- ii) did not apply through proper channel for the post in Delhi.
- iii) has not deposited his pension salary contribution.
- iv) submitted his resignation from K.R. Inter College, Chirori on 3.10.69 and joined

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Gandhi Harijan School Brahmpuri, Delhi on 6.10.69 and then has thus been a break of 2 days in his service.

4. Placed on record is a photocopy of the certificate dated 12.3.97 from the K.R.Inter College, Chirori stating that applicant submitted his resignation as per rules. The authenticity of this certificate dated 12.3.97 has been attested by the respondents themselves who have filed a copy of letter dated 28.10.98 from the K.R.Inter College, Chirori addressed to them, which is also taken on record. In this letter dated 28.10.98 it is stated that a copy of applicant's resignation letter is not available in their records, nor is the copy of this application he submitted to Gandhi Harijan School, Delhi. Respondents are also unable to produce from their records copy of applicant's application for appointment in Gandhi Harijan School, Delhi or establish the procedure by which applicant came to be appointed there. From the applicant's personal records shown to me it is clear that applicant was interviewed for the post of Physical Training Instructor on 4.10.69 along with one Shri Jagdish Lal. While Shri Jagdish Lal appeared for the interview on the basis of being sponsored by the Employment Exchange. There is nothing shown to me by respondents to establish that applicant applied through and was sponsored by the Employment Exchange.

5. Under the circumstance there are no materials before me to doubt applicant's assertion that he did apply for the post in Gandhi Harijan School Delhi

through proper channel, and was called for the interview on 4.10.69 pursuant to the same.

6. In this connection respondents' OM dated 17.6.65 occurring in GOI's decision No.(1) below Rule 26 CCS(Pension) Rules lays down that in cases where Govt. servants apply for posts in the same or other departments through proper channel and on selection, they are asked to resign the previous post for administrative reasons, the benefit of past service if otherwise admissible under rules may be given for purpose of pay fixation in the new post treating the resignation as a technical formality.

7. In the facts and circumstances of this case therefore, the O.A. is disposed of with the direction that if deposit of pension salary contribution is permissible even at this stage under rules, respondents after ^{obtaining} ~~making~~ such deposit ^{from applicant} should consider counting of applicants' service from 8.7.59 to 3.10.69 towards retiral benefits, after ignoring the 2 days' break in service. Such consideration should be completed within 3 months from the date of receipt of a copy of this order.

8. The OA is disposed of in terms of para 7 above. No costs.

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

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