

Central Administrative Tribunal
Principal Bench

CA-2061/94

New Delhi, the 14th February, 1996.

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

Shri S.S. Lamba
S/o Sh. Harnam Lamba
H.No.KG.II/184, Vikas Puri
New Delhi. .. Applicant

(Advocate: Sh.K.K.Budhiraja)

versus

Union of India: through
Secretary, Deptt. of
Bio-Technology,
Ministry of Science and Technology
Block No.2, CGO Complex, 7th Floor
Lodhi Road, New Delhi. .. Respondents
(Advocate: Sh. N.S. Mehta)

ORDER

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

The facts of this case in brief are that the applicant was working in the Mineral Development Board, hereinafter, referred to (MDB) an autonomous body under the Deptt. of Steel, Govt. of India, New Delhi between 19.4.74 to 30.10.1987 in the capacity of a Private Secretary. He applied through the MDB for a vacancy of Private Secretary in the Deptt. of Bio-Technology where he joined on transfer basis on 13.10.87. Later he took over as Executive Assistant on 21.10.87 in the same Deptt. and

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worked in that capacity till July, 1989. Thereafter, he joined ^a Company, the Indian Vaccine Corporation Ltd. The applicant claims that although he had received the terminal benefits from MOB on joining the Deptt. of Bio-Technology, ^{that} he later came to know under the Rules ~~that~~ he was entitled to exercise an option to receive pension. His representations to that end were however turned down by the Deptt. of Bio-Technology. The applicant also claims parity with two other similar employees of the Deptt. of Personnel S/Shri Purshotam Lal and R.K. Bhatnagar who on being refused the pensionary benefits by the Deptt. of Bio-Technology approached this Tribunal and the Tribunal ordered that their services ⁱⁿ MOB be counted for pension.

2. The respondents deny the claim of the applicant and also submit that the cases of S/Shri R.K. Bhatnagar and P. Lal are different from the case of the applicant in as much as S/Shri R.K. Bhatnagar and P. Lal retired from the Deptt. of Bio-Technology on attaining the age of superannuation while the applicant in the present case resigned from the Deptt. in order to join ^a Company. Further-more the respondents also refute the claim of the applicant that he exercised the option for receiving the pensionary

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benefits within one year of his joining the Deptt. on transfer from MDB ^{as} had already [^] and he/received the terminal benefits from MDB there could not be a question of claiming of pensionary benefits.

3. I have heard the ld. counsel on both sides.

The first question ^{that} arises is whether the case of applicant is, ~~xxxxxx~~, similar to other ~~that is~~

two S/Sh. R.K. Bhatnagar and F. Lal. A copy of Tribunal's Order in CA-126/92 in case of Shri P. Lal

has been annexed with this OA. Shri Purshotam Lal

was serving in the Indian Bureau of Mines, Min. of

Steel and Mines from 17.11.1955 to 21.1.1980 when

he joined the MDB ^{and} after serving there for a period of seven years and 8 months, he joined the Deptt.

of Bio-Technology. The disputed related to this

period as regards it is being counted for the purpose

of pension. It was found ^{in that case} that under Govt. of India

instructions dt.3.12.1977 (MF Om No.3(15)E-V(A)/76)

~~a provision that~~ the service rendered in the central autonomous bodies by the applicant who left the services of those bodies any time prior to their take over by the Central Government and who later on joined service under the Central Government with or without break would be allowed to be counted towards pension and/or gratuity to the extent admissible under the rules at the time such persons retire. The case of the

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applicant here is also regarding the counting of his service in the MDB, he having worked in other Deptts. prior to joining the MDB and therefore in this respect his case is no different from Shri Purshotam Lal decided in CA No.126/92.

4. The second question is whether the case of the applicant falls into a different category because unlike Shri Purshotam Lal, the applicant did not stay in the Deptt. till attaining the age of superannuation but instead submitted his resignation. He ~~therefore~~ becomes non-entitled for pension because he resigned from the Govt. job and did not take voluntary retirement in terms of the rules, is one of the reasons for rejecting the claim of the applicant. The respondent alleges that as per DOPT instructions contained in OM No.28/10/84-Pension Unit dt. 29.8.84, the cases of Central Govt. Employees going to other Central Autonomous Bodies or vice versa may be regulated as per rules therein, if the concerned person exercises an option either to receive the CPF benefits or pension and this option must be exercised within one year of the date of absorption failing which the employee will be deemed to have opted to receive CPF benefits. The respondents deny that the applicant has exercised this option. The applicant in his rejoinder has however annexed a copy

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of the letter dt. 17.11.87 addressed to 'The Joint Secretary, Deptt. of Bio-technology, New Delhi' requesting that his service be regulated in accordance with the afore mentioned OM of the DOP&AR. The applicant case is that this was the only application filed jointly by all the similarly placed employees and applicant as well as Shri Purshotam Lal were common signatories to the aforesaid application and in the case of Sh. Purshotam Lal there was no other option exercised except this common application.

5. While the personal file of Sh. Purshottam Lal gives no clue, the file of one Mrs. Kiran Gupta which has also been submitted provides some indication. Mrs Kiran Gupta was also one of the signatories of the letter dt. 17.11.87 while Shri R.K. Bhatnagar was shown as on leave. In one of her letters, Mrs. Kiran Gupta has referred to an earlier representation dt. 17.11.87. This date corresponds to the copy of common representation filed by the applicant with the rejoinder. Therefore there is no reason to doubt that Sh. S.S. Lamba was one of the signatories who made this application on 17.11.87 to the Joint Secretary of the Deptt. of Bio-technology.

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6. In the light of the above discussion, I find that the case of applicant Sh. S.S. Lamba is in line with the case of S/Sh. R.K. Bhatnagar and Purshottam Lal so far as counting the service of MDB for purposes of qualifying service for pensionary benefits is concerned. I also find that the necessary options have been exercised within a period of one year. However, as to whether the applicant is eligible to count the service rendered by him prior to joining the MDB and ^{whether} ~~where~~ he is entitled in terms of Rule 26(b) of CCS(Pension) Rules is a matter to be gone into by the Deptt. It is accordingly directed as follows:

1. The Deptt. of Bio-technology will examine the case of the applicant by counting the service rendered by him in MDB as a qualifying service for pension and also as if the applicant had exercised the option in favour of drawing pensionary benefits;
2. The respondents will also consider the service rendered by the applicant prior to joining the MDB as per rules;
3. Thereafter, the respondents will decide and regulate the pensionary

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benefits taking into account

Rule 26 of the CCS(Pension) Rules;

7. The above exercise will be completed within a period of four months. In case it is found by the Deptt. that the applicant is not entitled to pension, they will pass a detailed speaking order stating the reasons thereof and inform the applicant before the expiry of the period of four months. The applicant will then be at liberty to approach the Tribunal again if so advised. The above application is disposed of accordingly. No order as to costs.

R.K. Ahuja
(R.K. Ahuja)
Member (A)