

Central Administrative Tribunal  
Principal Bench

O.A. No. 2583 of 1994

New Delhi, dated this the 19<sup>th</sup> AUGUST, 1999

Hon'ble Mr. S.R. Adige, Vice Chairman (A)  
Hon'ble Mr. Kuldip Singh, Member (J)

Shri K.L. Rehani,  
Retd. Dy. Registrar,  
Income Tax Appellate Tribunal,  
S/o late Shri Howan Dass Rehani,  
R/o JA/15-A, Ashok Vihar Phase I,  
Delhi-110052. .... Applicant

(By Advocate: Shri M.L.Chawla)

Versus

1. Union of India through  
the Secretary,  
Ministry of Law & Justice,  
Dept. of Legal Affairs,  
New Delhi.
2. The President,  
Income Tax Appellate Tribunal,  
10th-11th Floor, Lok Nayak Bhawan,  
Khan Market,  
New Delhi-110003. .... Respondents

(By Advocate: Shri Madhav Panikar)

O R D E R

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

Applicant impugns respondents' U.O. dated 12.12.90 (Ann. A-IV) and seeks inclusion of the period of Government service put in by him from 28.8.51 to 31.7.64 towards qualifying service for grant of post retiral benefits.

2. Applicant commenced service on 28.8.51 but resigned, from service on 31.7.64. He remained in private employment from August, 1964 till he rejoined Government service as Assistant Registrar, ITAT in 1974 where he eventually retired on superannuation on 31.3.91.

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3. We have heard applicant's counsel Shri Chawla and respondents' counsel Shri Madhav Panikar. We have also perused the materials on record and given the matter our careful consideration.

4. Applicant's counsel Shri Chawla contends that applicant's resignation from Government service in 1964 was owing to family circumstances. He asserts that pension for the service put in by applicant from 28.5.51 to 31.7.64 is a deferred wage to which applicant is entitled by right. He also asserts that the need for the entire service put in by a Government servant to be in one spell, is no longer valid in this connection and relies on Rule 26 (6), 28 and 88 of CCS (Pension) Rules.

5. Respondents' counsel Shri Madhav Panikar has invited our attention to the application form addressed to UPSC submitted by applicant while applying for the post of Asst. Registrar (Ann. A-II) in which he has clearly stated that his reasons for leaving Government service earlier, i.e. on 31.7.64 were to better his prospects, and not for domestic ~~probable~~ <sup>reasons</sup> as asserted by him.

6. Having resigned from service from Government w.e.f. 31.7.64 and being in private employment for nearly a decade, the counting of

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applicant's previous service from 1951 to 1964 is clearly hit by Rule 26(1) CCS (Pension Rules). Furthermore Rule 28(b) of those Rules also clearly hits applicant's case.

7. In so far as the prayer for relaxation of these Rules, in the background of the power to relax the rules contained in Rule 88 is concerned, the impugned U.O. dated 12.12.90 correctly points out that applicant resigned from service to take up private employment to better his prospects. Hence interruption between the two spells of Government service was not for reasons beyond applicant's <sup>control</sup> and therefore it was not an appropriate case to invoke Rule 88.

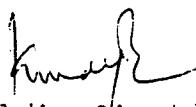
8. It cannot be said this conclusion is either illegal or arbitrary so as to warrant our judicial interference, and it is clear that it has been reached after due application of mind.

9. During the course of hearing Shri Chawla also cited certain rulings namely ATJ 1996 Part II (21) 157; AIR 1990 SC 1808; SLJ 1992 Part II (34) 310; 1993 (3) AISLJ Page 41 and AISLJ 1996 Part II (60) 24, but in the facts and circumstances

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discussed above none of them advance applicant's case.

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



(Kuldip Singh)

Member (J)



(S.R. Adige)

Vice Chairman (A)

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