

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI
O.A.NO.528/94
Decided on 31.01.1995

(8)

(Hon'ble Shri P.T.Thiruvengadam, Member (A))

Smt. Vidya Devi,
w/o Sardar Sant Singh,
r/o A-9, Nari Niketan Staff Quarter
Jail Road,
Hari Nagar,
NEW DELHI - 110 064.

.... APPLICANT

(BY Shri K.N.Nagpal, counsel for the applicant)

Vs.

1. Chief Secretary,
National Capital Territory of Delhi
Old Secretariat,
Delhi.
2. Director of Social Welfare
Curzon Road,
New Delhi.

(By Shri Surinder Adlakha, counsel for the respondents)

O R D E R (Oral)

The applicant had joined service with Nari Niketan, Jashpur, New Delhi on 29.1.1966 and continued as a cook in that organization. Nari Niketan was taken over by Delhi Administration on 1.1.1979. The applicant has since retired. This O.A. has been filed for calculating the antecedent service from 1966 to 1979 as a qualifying service for pension purposes.

Learned counsel for the applicant relies on the orders passed by Hon'ble Supreme Court in writ petition No.1055 of 1980 and 1088 of 1983 filed by Smt. Prema Devi/Smt. Satyavati respectively. In the judgment of the apex court reference had been made to the orders passed by the same court in an earlier case of Smt. Geeta Mehta and the orders therin read as under:

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"The respondents are directed to calculate the pension and other retirement benefits of the petitioner taking into account the antecedents of service before absorption and pay the same as early as possible and in any event not later than three months from today."

In the writ petitions No.1055/88 and 1088/88, the Hon'ble Supreme Court has observed that the argument by the respondent that in the case of Smt. R.Mehta would not be applicable in these writ petitions is without any basis. Accordingly, writ petition is allowed.

In view of the orders of the Hon'ble Supreme Court in the writ petitions mentioned above in similar cases, it is the case of the applicant that Srmt. Vidya Devi is also eligible for pension deeming her service from 1966 with Nari Niketan as a qualifying service.

Learned counsel for the applicant referred to the appointment order issued by Nari Niketan on 29.1.1966 (Amdt. No. 3/A/1). The order reads as under:

"Smt. Vidya Devi is appointed ~~as~~ provisionally as Cook on a consolidated pay of Rs.30 + free meals w.e.f. 29.1.1966. Regular appointment order will be issued in due course."

Reference was also made to a subsequent office memorandum dated No.9.12.1975 issued by Nari Niketan. This office memorandum reads as under:

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(10)

"**Gmt. Vidya Wati, Cook (part time) is hereby informed**
that the Board in its meeting held on 27.9.1975 vide para 3(a) resolved to increase her pay from Rs.45/- P.M. to 100/- P.M. with meals. It is to take effect from 1.10.75."

Learned counsel for the applicant further drew attention to the memorandum dated 18.10.78 issued by Nari Niketan, the first paragraph of which reads as below:

"with the prior approval of the Delhi Administration Gmt. Vidya Devi, Cook is hereby upgraded to the post of Watch & Ward-cum-Cook in the scale of Rs.70-1-85 w.e.f. 9.10.1978 plus usual allowances as admissible under the rules of Nari Niketan subject to conditions laid down as under

When Nari Niketan was taken over by Delhi Administration, the applicant alongwith others working under the Nari Niketan were fixed on specified scales. The applicant was granted a scale of Rs.196-232 w.e.f. from 1.12.1979 and at the time of absorption was fixed at Rs.232.

It is argued that the appointment orders quoted above bring out that the applicant had been appointed in 1966 itself and hence she is eligible for the period from 1966 to 1978/1979 being counted as qualifying service. It is also mentioned that any other interpretation would be discriminatory to the applicant.

The learned counsel for the respondents referred to the additional reply filed on 16.12.1994. It is explained that after the orders of Hon'ble Supreme Court in the writ petition, even the applicants therein were given benefit of the qualifying service only after they were given regular scales of pay. Thus, in the case of Smt. Prema Devi, who had filed the writ petition No 1075/38 before

(11)

Supreme Court, the service of Srmt Prema Devi during 11.3.1958 to 30.12.1962, when she was given a consolidated Rs.30 per month was not taken into account. From 31.12.1962 she was fixed in the regular scale of Rs.30-35 and hence, the service beyond that date only was taken into account as qualifying service.

In the case of the applicant in the O.A., the regular scale of pay which is granted at the time of regular appointment has been given for the first time only vide memorandum dated 16.10.1973. This scale of Rs.70-85 was granted to the applicant ~~usef~~ ^{on} 9.10.1973 and ~~as~~ ^{as} a qualifying service.

At this stage, learned counsel for the applicant argued that the delay in fixing the applicant on regular scale by almost 12 years should not be to the detriment of the applicant. I note that even in the orders of Supreme Court, what is required to be taken into account is the "antecedents of service". The applicant was initially granted only a consolidated amount of Rs.30 at the time of first appointment on 24.1.1966. The later memorandum issued on 9.1.1975 again showed a consolidated pay of Rs.100 per month and the designation of the applicant as Cook (Part - time). No documents were produced to bring out that the applicant was given a scale of pay prior to 9.10.1978. An ingredient for regular service is fixation in a scale of pay. As per the records made available the fixation in her scale of pay has been made only on 9.10.1978. The issue as to why there was considerable delay between 1966 and 73 for regular scale is not the subject matter of this O.A.

In the circumstances, the action of the respondents in reckoning the qualifying service only from 9.10.1978 cannot be faulted. Accordingly, the O.A. is dismissed. No costs.

P. T. Thiruvenkadam

(P. T. THIRUVENGADAM)
Member (A)