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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

D.A.No.739/94.

Date of decision : 8.3.1995

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

K.C. Sharma,
S/o late Shri D.P. Sharma,
Retired Accounts Officer,
The National Small Industries
Cooperative Ltd.
New Delhi-110020.
Resident of B-13, Upper Anand
Parbat, New Delhi. .. Applicant

(In person)

versus:

Commandant,
Central Ordnance Depot,
Delhi-110 010. .. Respondents

(By Advocate Shri M.M. Sudan)

O_R_D_E_R (ORAL)

LHon'ble Smt. Lakshmi Swaminathan, Member (J)J

This application has been filed under Section 19 of the Administrative Tribunals Act, 1985 against the rejection of the applicant's claim for grant of pension and other benefits by letter dated 18.1.1994. The applicant claims ~~some~~ ^{je} benefits of revision of pension for the services rendered by him from 20.10.1943 to 13.2.1962 when he was an employee of the Army Ordnance Corps in the Central Ordnance Depot, Delhi Cantonment in terms of the revised benefits given in O.M. dated 16th June, 1967 which had also been allowed by the Hon'ble Supreme Court in Shri T.S. Thiruvangdom v. UOI Ministry of Finance judgment (1993 (24) ATC 102).

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2. The brief facts of the case are that the applicant who had been a Quasi-Permanent Civilian employee in the Army Ordnance Corps. for more than 18 years had been absorbed in the National Small Industries Corporation Ltd. (NSIC) in the public interest on 14.2.1964. The applicant states that the Commandant, Central Ordnance Depot, Delhi had sanctioned an amount of Rs. 2993/- as terminal benefits but no amount had been paid to him till this date. From the reply filed by the respondents this position appears to be factually correct.

3. The applicant claims ~~similar~~^{the} benefits of pensionary amount for his services rendered to the Government in terms of the Ministry of Finance O.M. dated 16th June, 1967 of which the operative features are reproduced below:-

(i) A permanent Government servant with not less than 10 years qualifying service on absorption in public undertaking was eligible for pro rata pension and death-cum-retirement gratuity based on the length of his qualifying service under Government till the date of absorption. The pension was to be calculated on the basis of average emoluments immediately before absorption.

(ii) The pro rata pension, gratuity, etc. admissible in respect of the service rendered under the Government was disbursable only from the date the Government servant would have normally superannuated had he continued in service.

4. In the case of T.S. Thruvandom v. UOI (Supra) the Supreme Court held that there was no substance in the contention of the Government that the revised benefits cannot be extended to employees who were absorbed earlier to the cut off date of 16th June, 1967, as this was arbitrary and violative of Articles 14 and 16 of the Constitution.

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The Supreme Court allowed the appeal and directed the respondents to finalise the benefits as per the memorandum dated 15th June, 1967 of pay and arrears of pension etc. within 3 months with 12% interest after one month.

5. The applicant has also submitted the office memorandum of Government of India, Ministry of Personnel, Public Grievances (placed on record) and Pension dated 3.1.1995/ which deals with the grant of retirement benefits on permanent transfer of Government servants to Government Companies/Corporations and the manner of implementation of the Supreme Court judgment in

Thiruvengdom's case (Supra) which provides as follows :-

- (i) The absorbee should satisfy all the terms and conditions regarding grant of retirement benefits as laid down in the Ministry of Finance, Department of Expenditure O.M. dated 16.6.1967, as amended vide O.M.No. 44(8)/E.V/71, dated 19.6.1972. The question of proportionate pension will not arise in cases where an officer, at the time of absorption, had rendered less than 10 years of service under Government and was not entitled to pension. In such cases, he will only be eligible to proportionate service gratuity in lieu of pension and to D.C.R. Gratuity based on the length of service.
- (ii) The absorbee should have proceeded to a Central PSU in public interest and absorbed therein prior to 16.6.1967.
- (iii) The absorbee should have received the retirement benefits as per Ministry of Finance, Department of Expenditure O.M.No.F.2(33)/EVA/60, dated 10th November, 1960, viz., an amount equal to what Government would have contributed had the officer been on Contributory Provident Fund terms under Government, together with simple interest thereon at 2% for the period of his pensionable service under Government, should have been credited to his Contributory Provident fund Account with the PSU as an opening balance within one year from the date of his/her permanent absorption.

6. I have heard the applicant in person and the learned counsel for the respondents, Shri M.M. Sudan. The judgment

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of the Hon'ble Supreme Court in Thruvengdom's case is in all fours with the facts in the case of the applicant. Further, it is also seen that vide O.M. dated 3.1.1995, the Government has taken a decision to implement the judgment of the Supreme Court in the case of all similarly placed Government servants who have been absorbed in the Central Government Public Undertakings even prior to 16.6.1967.

7. In the result, the O.A. is allowed with the following directions :-

(i) The respondents are directed to finalise ~~the applicant's~~ ~~pensionary~~ ~~benefits~~ under the O.M. 16.6.1967 in accordance with O.M. dated 3.1.1995 within 3 months from the receipt of a certified copy of this order and pay all arrears of pension etc. to the applicant within one month thereafter in accordance with law.

(ii) It may also be noted from the reply of the respondents that no amount of the sanctioned retiral benefits viz. Rs. 2993/- has been so far paid to the applicant and hence there will be no question of adjustment of this amount from the retirent dues.

8. The O.A. is disposed of with the above directions. There will be no order as to costs.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)