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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH
NEW DELHI

O.A.No. 867/94.

Date of decision: 6-1-95

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

Smt. Pushpam Joseph,
W/o Shri M.J. Joseph,
Retd. Advisor,
Department of Economic Affairs,
(Economic Division),
Ministry of Finance,
New Delhi.

.. Applicant

R/o 9, SFS Flats, Pkt. 8,
Shaiksaari, Phase I,
New Delhi-17.

(By Advocate Shri K.N.R. Pillai)

versus

1. Union of India
through the Secretary,
Ministry of Finance
(Department of Economic Affairs),
New Delhi.
2. Union of India
through the Secretary,
Ministry of Railways
(Railway Board),
New Delhi.
3. Union of India
through the Secretary,
Ministry of Personnel,
Public Grievances & Pensions,
New Delhi.
4. Union Public Service Commission
through its Secretary,
Delhi House,
New Delhi.

.. Respondents

(By Advocate Shri M.K. Gupta)

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

The applicant being aggrieved by the failure
of the 4th Respondent, UPSC, to accord its concurrence
to the proposal of Respondent No. 1, Ministry of Railways,
to allow her the benefit of added years of service in

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terms of Rule 30 of the CCS (Pension) Rules, 1972 has filed this application under Section 19 of the Administrative Tribunals Act, 1985. In this application, the applicant has sought ^{relief} to quash the impugned order dated 7.4.1993 (Annexure A-II) conveying the decision of the UPSC and for a direction to the respondents to grant the applicant the benefit of added years of qualifying service in terms of Rule 30 of CCS (Pension) Rules and to pay her consequential benefits with 12% interest for the period of delay.

2. It is seen from the facts given by the respondent No. 1, Ministry of Railways at Annexure A-I that they had requested the UPSC to concur in their proposal to allow the benefits of added years of service to the applicant in terms of Rule 30 of the CCS (Pension) Rules which has been rejected by the UPSC without giving any reasons. The applicant was initially recruited by the Ministry of Railways (Railway Board) as Transport Economist (later redesignated as Research Officer) in the scale of Rs. 400-950 u.e.f. 1.11.1966. She was later appointed as Senior Research Officer, Railway Board with the approval of UPSC u.e.f. 10.5.1968. Later on, she was relieved of her duties in Board Office on her selection as Assistant Economic Adviser, Department of Economic Affairs.

3. Respondent No. 1 has clarified in the letter dated 8.1.1993 to the UPSC (Annexure A-I) that the recruitment rules for the post of Research Officer/ Senior Research Officer in the Economic Unit of Railway

Board were issued first time on 14.2.1969 i.e. after the appointment of the applicant as Research Officer. These rules were superseded by the rules of 1970 and thereafter by the rules issued on 6.5.1983. As per the recruitment rules for various posts in the Economic Unit of Railway Board, direct recruitment is made to the post of ~~the post of~~ Assistant Economic Adviser/ Senior Research Officer/ Research Officer upto a maximum age limit of 40 years for the first two posts and 35 years for Research Officer.

4. Rule 30 of the CCS (Pension) Rules reads as follows :-

"(i) A Government servant appointed to a service or post after the 31st March, 1960, shall be eligible to add to his service qualifying for superannuation pension (but not for any other class of pension) and actual period not exceeding one-fourth of the length of his service or the actual period by which his age at the time of retirement exceeded 25 years or a period of five years, whichever is less, if the service or post to which the Government Servant is appointed is one:-

- (a) for which post graduate research, or specialist qualification or experience in scientific, technological or professional fields, is essential ; and
- (b) to which candidates of more than 25 years of age are normally recruited."

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Provided that this concession shall not be admissible to a Government Servant unless his actual qualifying service at the time he quits Government Service is not less than ten years.

Provided further that this concession shall be admissible only if the recruitment rules in respect of the said service or post contain a specific provision that the service or post is one which carries the benefit of this rule.

5. The Railway Board had clarified to the UPSC that the applicant fulfills both the conditions (a) and (b) of Rule 30. However, the recruitment rules for the post of Research Officer/Senior Research Officer did not contain the specific provision as required in the second proviso to Rule 30 of the CCS (Pension) Rules.

6. The Railway Board has, however, pointed out that the applicant should be allowed the benefit of added years of service for holding the post of Research Officer/Senior Research Officer during November, 1966 to 29th September, 1978 in view of the provision of rule 2423-A of the Indian Railway Establishment Code (Vol.II).

This rule provides that an officer appointed to a service or post on or after 1st April, 1960 may add to his service qualifying for superannuation pension the actual period not exceeding one-fourth of the length of his service or the actual period by which his age at the time of recruitment exceeds 25 years or a period of five years whichever is the least if the service or post was one for which a post graduate qualification is essential and to which the candidates of more than 25 years are normally recruited, subject to the officer having not less than 10 years qualifying service. The Railway Board

had also pointed out to the UPSC that in view of rule 2423-A of the Rules applicable to railway service at the time ~~of~~ the applicant was recruited in 1966, the fact that such a provision had not been incorporated in the recruitment rules which came into being much after her initial recruitment in 1966 should not stand in her way of allowing her the added years of service, in terms of Rule 30 of the CCS (Pension) Rules. In spite of the recommendation of Respondent No. 1, as mentioned above, the UPSC had rejected the proposal. Since, no reasons have been given for such rejection say by the UPSC, it is not possible to ~~say~~ what weighed with them.

7. The learned counsel for both the parties were heard. Shri KNR Pillai, learned counsel for the applicant, has also relied on the judgement of Supreme Court in UOI and Another v. S. Dharamalingam [1994] 1 SCC 179.

8. The Supreme Court in UOI & Another v. S. Dharamalingam (Supra) has held as follows :-

"From a perusal of Rule 30(1) it is evident that it seeks to confer a benefit in the matter of addition to qualifying service on a Government servant who is appointed to a service or post fulfilling the conditions laid down in clauses (a) and (b) of sub-rule (1) of Rule 30 of the rules after March 31, 1960.....This would show that the intention underlying the said provision is to compensate the Government

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servant for the time taken by him in securing the additional qualifications or experience which are essential for appointment to the service or post. This benefit is available to every Government servant who fulfils the requirements of the rule and there is nothing in sub-rule (1) of Rule 30 to exclude the applicability of the said provision to a person who is already in Government service at the time of his appointment to a service or post referred to in Rule 30. To hold that the benefit under Rule 30 cannot be availed of by a person who is already in Government service at the time of his appointment to a service or post referred to in sub-rule (1) of Rule 30 would lead to anomalous consequences. A person who after employment in Government service for one year is appointed to a service or post referred to in sub-rule (1) of Rule 30, would be entitled to addition of only one year to his qualifying service if the benefit of Rule 30 is denied to him while a person who is not employed as a Government servant at the time of his appointment to a service or post referred to in Rule 30 would be entitled to addition to a period extending up to 5 years to his qualifying service. There appears to be no reason for subjecting a person who is already in Government service at the time of his appointment to a service or post referred to in Rule 30 to a differential treatment and denying him the benefit available to other person who is not in Government service at the time of such appointment. The language used in Rule 30 does not make such an invidious distinction. In our view, therefore, addition to qualifying service under sub-rule (1) of Rule 30 is available to every Government servant who is appointed to a service or post referred to in sub-rule (1) of Rule 30 after March, 31, 1960, irrespective of the fact whether he was already in Government service or was joining Government service for the first time, at the time of appointment to the service or post referred to in Rule 30." (Emphasis added).

J.S.

9. Having regard to the facts of the case and the decision of the Supreme Court in UDI and Another v. S. Dharamalingam (Supra), the applicant is entitled to avail the benefit of the addition of qualifying service in terms of Rule 30(1) of the CCS (Pension) Rules. The application, therefore, succeeds. The respondents are directed to re-calculate the applicant's pension accordingly, granting all consequential benefits, including arrears of pension together with 12% interest per annum on the difference of the pension so re-calculated w.e.f. 3 months from the date of her retirement i.e. from 1st July, 1993. These consequential benefits shall be paid to the applicant within two months from the date of receipt of a certified copy of this order.

10. The application is allowed as directed above. There will be no order as to costs.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (Judicial)