

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

.....
O.A. No. 991 of 1994

Dated New Delhi, this 29th day of September, 1994

Hon'ble Shri B. K. Singh, Member (A)

Shri Ashes Kanti Deb Purkayastha
R/o G-1268, Chittaranjan Park
NEW DELHI

... Applicant

By Advocate: Shri R. K. Singh

VERSUS

Union of India through

1. The Secretary
Ministry of Personnel, Public
Grievances and Pensions
North Block
NEW DELHI.

2. Central Social Welfare Board
through its Executive Board
Samaj Kalyan Bhawan
B-12, Institutional Area
NEW DELHI-110016

3. The Chief Secretary
Government of Assam
Civil Secretariat
Dispur
GUWAHATI-110021

4. The Director of Industries
Government of Assam
Bamuni Maidan
GUWAHATI-110021

... Respondents

By Advocate: Shri P. H. Ramchandani

JUDGEMENT

Shri B. K. Singh, M(A)

The application has been made against refusal
of granting pensionary benefits to the applicant.

2. The admitted facts of the case are that there
is a reciprocal arrangement between the Government
of India and the Government of Assam that any employee

Contd...2

who is serving with the Government of Assam and he is selected and absorbed in any attached or affiliated office or any Ministry of Government of India, he will be entitled to count the service rendered with the Government of Assam or with any other Government with which the Central Government has a reciprocal arrangement. The applicant retired on 30.4.94 as Deputy Director from the Central Social Welfare Board, New Delhi. He claims that he is entitled to get the pensionary benefits on the basis of 33 years qualifying service as per the Central Civil Service(Pension)Rules, but the respondent No.2 is arbitrarily refusing the same on the ground that it cannot be given unless respondent no.3 & 4 discharge their pensionary liability.

3. The applicant was an employee of the State of Assam from 24.1.59 to 15.2.78 i.e., he had to spent nearly 19 years of service with the Government of Assam. He was appointed as an employee of respondent no.2 with the approval of respondent nos.3 & 4, on permanent absorption basis. As per the O.M.No.27(1)/84-P-Pu/Vol.II and O.M. No. 28/10/84, the applicant is entitled to get pensionary benefits on the basis of 33 years qualifying service. Therefore, refusal by respondent no.2 to grant the pensionary benefits on the basis of 33 years qualifying service to the applicant is arbitrary and illegal.

Contd...3

4. Aggrieved by the refusal by respondent no.2 to pay him the pensionary benefits on 33 years qualifying service, the applicant has approached this Tribunal with the original application No.991/94 on 11.5.94.

5. The applicant has prayed for the following reliefs:-

"(i) direct the respondent no.2 and 1 to pay pensionary benefits to the applicant on the basis of 33 years qualifying service irrespective of the discharge of liability by the respondent no.3 & 4;

(ii) direct the respondent no.3 & 4 to discharge their pensionary liability for the service rendered by the applicant to them;

(iii) direct the respondent to pay the costs of the legal proceedings to the applicant..."

6. A notice was issued to the respondents who filed their reply and contested the application and grant of reliefs prayed for. I heard the learned counsel for the applicant, Shri R. K. Singh and Shri P.H. Ramchandani for the respondents and perused the record of the case.

7. It is admitted by both the parties that the applicant worked under the Government of Assam from 24.1.59 to 15.2.78 and that he joined the Central Social Welfare Board, New Delhi and worked in various capacities from 18.2.78 till the date of retirement on 30.4.93. It is also admitted that the applicant has been given only retirement benefits on the basis of his qualifying service

Contd...4

in the Central Social Welfare Board with effect from 18.2.78 to 30.4.94 i.e. for 17 years only. It is further admitted that respondent nos. 1 & 2 had written to the Department of Industries, Government of Assam to grant the applicant pro-rata pensionary benefits for the services rendered by the applicant from 24.1.59 to 15.2.78 with them. It is the Assam Government which is not agreeable to discharge the liability of the applicant and a copy of their reply dated 18.1.93 has been annexed as Annexure R-1 to the counter reply. It is also admitted by both the parties that several letters/reminders have been sent for counting of past service of the applicant, but the Government of Assam has not sent any positive reply in this connection. During the course of arguments, I wanted to know from the learned counsel for the respondents whether the applicant was on deputation before permanent absorption. The reply was in the affirmative. I wanted to know also, whether the pension, leave and gratuity contribution for the period of deputation, have been kept by respondent nos. 1 & 2 or these have been remitted to Government of Assam. He promised to ascertain the position and let me know, but he has not been able to communicate the factual position in this regard. It is the Assam Government which has sent a reply dated 18.1.93 declining to

Contd...5

10

discharge the liability of pension, gratuity and leave encashment to the applicant in the absence of any clear-cut terms and conditions regarding the terminal benefit to the applicant since no such terms and conditions were accepted by the Government of Assam before his permanent absorption in the Central Social Welfare Board and in the absence of any such terms and conditions, they have declined to meet the liability of pro-rata pension or to grant a lump sum in lieu thereof. The O.M. No. 28/10/84-Pension Unit issued by Government of India, Ministry of Home Affairs, Department of Personnel and Administrative Reforms on 29.8.84 has been marked and placed as Annexure-G with the paper book. The subject matter of this O.M. is: "Mobility of personnel between Central Government Departments and Autonomous Bodies - Counting of service for pension." This circular lays down that the Government/Autonomous body where an officer is serving and is subsequently absorbed in any affiliated or attached office of Government of India or any Ministry of Government of India, the concerned State Government/autonomous body will discharge its pension liability by paying in lump sum as a one-time payment from the pro-rata pension/service gratuity/terminal gratuity and D.C.R.S. for the service upto the date of absorption in the State Government/autonomous body till the date of



Contd...6

his absorption in the borrowing Ministry/Department/ Organisation. It is admitted by both the parties that service rendered with the Government of Assam and also Central Social Welfare Board are covered in the list of those State Governments/Organisations with which the Central Government has a reciprocal arrangement in such matters. This is Annexure -H of the paper book. Assam is one of the States with which the Government of India has a reciprocal arrangement as would be seen in Section VII paragraph-5 Appendix-12 which is in connection with C.C.S.(Pension)Rules. Once the Assam Government has entered into reciprocal arrangements with the Government of India, they are bound to abide by the rules incorporated and framed by the Government of India for conferring benefit to a transferred employee from the State Government of Assam. The rules on the subject are clear and unambiguous. The respondents 1 & 2 will request the Assam Government to honour their commitment and to discharge their liability of granting pro-rata pension or a lump sum in lieu thereof along with other terminal benefits such as leave encashment, D.C.R.G. etc. The Assam Government has also been made party in this application, as such there should be no difficulty for respondents 1&2 to take up the matter earnestly with the Government of Assam highlighting the mutual arrangements entered

 Contd...?

into with them. In a Unitary form of Govt. power lies in the purse and the purse is controlled by the Central Government and they are well within their right to remind the Assam Government to honour its commitments as a result of the mutual arrangements agreed^{to} by them with regard to reciprocal arrangements for mobility of their employees to the Central Government Organisations and that of Central Government employees to Assam Government or to autonomous bodies of the Central Government or of the State Government. The arrangements have come into force with effect from the date these State Governments have entered into such reciprocal arrangements. It was also mentioned during the course of arguments that the latest instructions of Government of India, Ministry of Personnel, Public Grievances and Pension is to the effect that on the basis of past service and present service of an officer who retires from Government of India or from any of its attached/affiliated office, he would be entitled for pensionary benefits and terminal benefits including pension, leave encashment and D.C.R.G. etc. on the total length of service put in by him if he has come from a Government with which it has a reciprocal arrangement. If this is so, then whether the Assam Government discharge its liability or not, respondents 1&2 should consult DoPT and sanction full qualifying pension to the applicant on the basis of 33 years of qualifying service put in

(B)

by him. He would also be entitled to all terminal benefits like leave encashment, D.C.R.G. etc. It is for the Government of India to claim the pro-rata pension or lump sum in lieu thereof and pro-rata leave encashment and D.C.R.G. since these terms are incorporated in their own circular while entering into reciprocal arrangements with those Governments.

8. The application is thus allowed and the respondents are directed to grant full pensionary benefits to the applicant along with other terminal benefits if there is a recent circular to this effect. These orders should be complied within a period of three months from the date of receipt of a certified copy of this order. A copy of this order be also sent to Respondents 3&4 who have entered into reciprocal arrangement to discharge their liability for the services rendered with them by the applicant.

9. With these directions this application is finally disposed of with no order as to costs.

B
(B. K. SINGH)
29/9/94
MEMBER(A)

dbc