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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.1954/2000

New Delhi, this the 16th day of the February, 2001

HON'BLE SHRI S.A.T. RIZVI, MEMBER (A)

Shri U.S. Verma
S/o late Shri U.S.P. Verma
R/o D-83, Gulmohar Park,
II Ird Floor,
New Delhi.

... Applicant

(By Advocates: Shri S.K. Bisaria)

V E R S U S

Union of India
Through Secretary, Ministry of Labour
Shram Sakthi Bhawan,
Rafi Marg,
New Delhi.

... Respondent

(None present)

ORDER (ORAL)

By SHRI S.A.T. RIZVI MEMBER (A):

None present on behalf of the respondent.

Heard the learned counsel for the applicant and I proceed to dispose of this OA in accordance with Rule 16 of CAT (Procedure) Rule, 1987.

2. The applicant in the present OA aggrieved by the non-inclusion of the period from 10.8.1971 to 22.12.1976, during which he worked in Kolar Gold Mining Undertaking (for short 'KGMU') followed by Bharat Gold Mining Limited (for short 'BGML'), in the computation made for determining the qualifying service for availing post retiral benefits, has filed this OA challenging the aforesaid action of the respondents as violative of Article 14 and 16 of the Constitution of India.

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3. Earlier to the aforesaid period the applicant had worked as a Chargeman (Welfare) in an Ordnance Factory from 12.2.1965 to 9.8.1971 and the same period has been counted towards computation of the qualifying service for pensionary etc. purposes. The applicant retired as Welfare Commissioner in the Ministry of Labour on 30.6.2000.

4. The applicant filed a representation, even before he superannuated, on 21.2.2000 before the respondent for counting of the service rendered by him in the KGMU and the BGML for the period from 10.8.1971 to 22.12.1976. Thereafter, he represented again on 29.2.2000 before the Director General (LW), Ministry of Labour. Later, the on going correspondence between the BGML and the respondent yielded a reply from the former dated 7.6.2000 in which it was clarified that for the period of service rendered by the applicant under the then KGMU from 10.8.1971 to 31.10.1973, the Central Government had paid Contributory Provident Fund of Rs.1155 for credit to the applicant PF account in lieu of his pension liability from the date of his appointment under the KGMU to the date of his option for the BGML, i.e., for the period from 10.8.1971 to 31.10.1973. In respect of the period from 1.11.1973 to 22.12.1976 during which the applicant had worked in the BGML, he was not eligible for pension but had the benefit of Contributory Provident Fund and Gratuity under the BGML Rules for the entire period from 1.11.1973 to 22.12.1976. Thereafter, on

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23.6.2000, the applicant again represented in the matter also refering to the aforesaid reply dated 7.6.2000 sent by the BGML to the respondent. In his aforesaid latest representation, the applicant has clarified that he was ready and willing have to pay back the Contributory Provident Fund received by him as mentioned in the BGML's aforesaid letter amounting to Rs.1155. On this basis, he has further requested for counting of his service in the KGMU for pensionary etc. purposes. The respondent is yet to send a reply to the applicant.

5. In support of the claim of the applicant, the learned counsel has drawn my attention to the provision for qualifying service which provides for the periods that count as qualifying service. The copy of the relevant instructions produced by the learned counsel is taken on record. He has in particular drawn my attention to the following 'period' which is required to be counted as qualifying service:-

"(p) Period of service in the Central autonomous bodies before joining service under the Central Govt. Any period of break shall be condoned. The employee shall however, refund to the Govt., the amount of gratuity/ employer's contribution received from the autonomous body."

6. The learned counsel as also drawn my attention in the same connection to the following provision made in Government of India, Ministry of Finance O.M. No.F.3(15)-E. v (A)/76, dated 3.12.1977

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reproduced on page 32-33 of Swamy's PENSION
COMPILATION Incorporating CCS Pension Rules
(Fifteenth Edition-2000) below:-

"(3) Counting of service rendered in Central Government autonomous bodies before their take-over by Central Government.-1. A question has been raised whether the service rendered in the Central Government autonomous bodies prior to their being taken over by the Central Government and who later on joined the service under the Central Government with or without break, can be allowed to be counted towards pension under the Central Government rules. . At present service rendered in the Central Government autonomous bodies which are taken over by the Central Government is allowed to be counted towards pension only in respect of those employees of the Central autonomous bodies who were in the service of those bodies at the time of their being taken over by the Central Government, subject to the condition that the retirement benefits, if any, available to the employees in respect of the service rendered in the autonomous body are made over to the Central Government. The service rendered in the autonomous body in respect of those employees who were not in position at the time of the take-over of the bodies by the Central Government is not allowed to be counted towards pension.

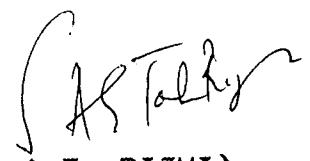
2. It had been represented that this is causing great hardship to the concerned employees who in some cases had considerable length of service in such bodies. This question has, therefore, been carefully considered and it has been decided that the service rendered in the Central autonomous bodies by the employees who left the service of those bodies any time prior to their take-over by the Central Government, and who later on joined service under the Central Government, with or without break, will be allowed to be counted towards pension and/or gratuity to the extent admissible under the rules at the time such persons retire or retired from Government service, the period of break, if any, being condoned. This will, however, be subject to the condition that the gratuity/employer's contribution received in respect of the service rendered in the autonomous bodies will be refunded to the Government with simple interest at the

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rate of six per cent per annum from the date of receipt to the date of refund."

7. The learned counsel has stressed that having regard to the aforesaid relevant provisions and the undertaking given by the applicant in his letter on 23.6.2000, the applicant is fully entitled to the counting of the aforesaid period from 10.8.1971 to 22.12.1976 as qualifying service for pensionary etc. purposes.

8. I find myself in agreement with the aforesaid contention raised by the learned counsel for the applicant and accordingly direct the respondents to count the service rendered by the applicant from 17.8.1971 to 22.12.1976 as qualifying service for the purpose of pension and other retirement benefits and to pay to the applicant the difference of pension and retirement benefits alongwith interest calculated at the rate 6% from the due date up to the date of actual payment. No costs.


(S.A.T. RIZVI)

MEMBER (A)

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