

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

Hon'ble Shri Shanker Raju, Member (Judicial)

O.A.No.2161/2000

New Delhi, this the 6th day of September, 2001

Randhir
s/o Sh. Jot Ram
r/o Village Palapa, PO Badli
Distt. Jhajjar (Haryana).

.. Applicant

(By Advocate: Shri Yogesh Sharma)

Vs.

1. N.C.T of Delhi through
The Chief Secretary
Old Secretariate
Delhi.

2. The Commissioner
Dept. of I & Flood, NCT of Delhi
Bassai Dharapur
Opp. ESI Hospital.

3. The Chief Engineer (I&F)
Govt. of Delhi, 4th Floor
ISBT Delhi.

... Respondents

(By Advocate: Shri George Paracken)

O R D E R (Oral)

By Shanker Raju, Member (J):

The claim of the applicant in this case is that having been completed 24 years of service and after retirement on 31.10.1995, he has been deprived of the pensionary benefits on the ground that he failed to fulfil the eligibility criteria as he failed to complete 10 years qualifying service from 1.6.1989 to 31.10.1995.

2. The applicant states that he has been engaged as Beldar on Muster Roll w.e.f. 1.11.1971 and was regularised w.e.f. 1.6.1989 and he was retired from service on 31.10.1995 as such the period from 1.6.1989 to 31.10.1995 which he has completed the total period of 6 years and 4 months as a Beldar but

the period from 1.11.1971 to 31.10.1995 if taken into account this entire period, he has completed 15 years and 2 months as such he is eligible for pensionary benefits as per the DoPTs Scheme. It is also stated that in view of the Apex Court in Yashwant Hari Katakkar Vs. Union of India & Others, 1995 Lab. I.C. 718, wherein it has been held that an employee who has completed 10 years of service and not regularised or confirmed shall be deemed to have become permanent for the purpose of service pension and also held non-regularisation of the service of an employee for a long period is unfair and illegal. In this view of the matter, he states that he is entitled for pensionary benefits. 9

3. On the other hand, strongly rebutting the contentions of the applicant, the learned counsel for the respondents states that firstly the OA is barred by limitation and secondly, his service rendered w.e.f. 1.11.1971 to 31.5.1989 was not meted out from the Government Fund but was from non-contingent fund as such he would not acquire the status of a casual labour or even Government servant which entitles him for accord of pensionary benefits and as such having failed to complete the requisite service of 10 years as provided under the rules he is not entitled for pensionary benefits.

4. I have carefully gone through the rival contentions of both the parties and also perused the pleadings available on record. In my considered view, the applicant has been illegally deprived of the pensionary benefits. The applicant has rendered

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service as Daily Wager Beldar on Muster Roll w.e.f. 1.11.1971 to 31.5.1989 and thereafter from 1.6.1989 to 31.10.1995 on regular basis, he has a right to be considered and half of the period of service be counted towards pensionary benefits as per the Government of India's Rules and DoPT's Scheme of 1993 and having regard to the decision in Yashwant Hari Katakkar's case supra. I hold that by virtue of his rendering service as Beldar on Muster Roll w.e.f. 1.1.1971 to 31.6.1989 his half of service rendered on casual basis be computed towards pensionary benefits which would make his qualifying service over 10 years entitling him for pensionary benefits.

5. In this view of the above, the present OA is disposed of by issuing directions to the respondents to consider accord of pensionary benefits to the applicant by considering the period rendered from 1.11.1971 to 1.6.1989 and commute half of it towards the pensionary benefits and to work out the pensionary benefits and the same may be disbursed to him within three months from the date of receipt of a copy of this order. The OA is accordingly disposed of. No Costs.

S. Raju
(SHANKER RAJU)
MEMBER(J)

/RAO/