

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No. 2445 of 2000

New Delhi, this the 7th day of August, 2001

HON'BLE MR. KULDIP SINGH, MEMBER(JUDL)

Baldev Verma
S/o Late Shri Mathura Das
Retired Employee
R/o A-3/43, Sector-16,
Rohini, Delhi-110 085.Applicant

(By Advocate: Shri P.K. Sharma)

Versus

1. Government of India
Through its Secretary,
Ministry of Agriculture,
Krishi Bhawan,
New Delhi.
2. Plant Protection Adviser
Government of India,
Directorate of Plant Protection,
Quarantine & Storage,
Ministry of Agriculture,
NH 1V Faridabad,
Haryana.
3. The Pay & Accounts Officer,
Department of Agriculture & Co-operation,
Plant Protection and Misc.
Block III, Level III, CGO Complex,
NH 1V Faridabad, Haryana. -**RESPONDENTS**

(By Advocate: Shri D.S. Mahendru)

O R D E R (ORAL)

By Hon'ble Mr. Kuldip Singh, Member (Judl)

Before filing this OA, the applicant had sent a legal notice under Section 80 CPC on 16.5.2000 seeking pension and other benefits for the period of service rendered by him in his parent department. The said notice was replied to by the respondents to which applicant also replied on 11.7.2000. As no reply was received by the applicant to the letter dated 11.7.2000, so he has filed this OA under Section 19 of the Administrative Tribunal's Act, 1985, praying for the

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following reliefs:-

(i) That he be granted pro-rata pension and other benefits for the period of service rendered by him in his parent department.

(ii) That he be paid encashment of leave standing to his credit at the time of acceptance of his resignation.

(iii) That he be paid interest on the amounts mentioned in (i) and (ii) above @ 18% p.m. from date of the same became due till the date of payment.

2. Facts of the case, as alleged in brief are that the applicant was appointed as Mechanic in the Directorate of Plant Protection, Quarantine & Storage vide Government of India, Department of Plant Protection, Quarantine & Storage Memorandum No.F-7023/L-51 dated 14.5.51 on a pay of Rs.150/- p.m. in the then pay scale of Rs.150-225 plus usual allowances as admissible to Government servants of his category.

3. It is further submitted that the applicant before his appointment as Mechanic in the in the Directorate of Plant Protection, was appointed as Mechanic at the Locust Warning Organisation (hereinafter referred to as LWO) of Plant Protection at Jodhpur w.e.f. 23.5.1951. He was made quasi permanent w.e.f. 1.7.1954.

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4. It is further stated that while the applicant was working as Mechanic in LWO, he applied for the post of Foreman (Auto) in Oil and Natural Gas Commission (hereinafter referred to as ONGC) through proper channel. The applicant was selected to the post of Foreman and was relieved of his duties from the post of Mechanic in LWO w.e.f. 3.3.96 vide Office Order No.112 of 1966 issued from the office of Deputy Locust Entomologist of LWO Jodhpur.

5. The applicant has further stated that ultimately he was absorbed in the ONGC and his resignation was accepted w.e.f. 3.3.1968 and as such it is stated that before his absorption in the ONGC he had already rendered 15 years of service with the Central Government, hence he is entitled to pension.

6. The applicant has relied on Appendix 12 of CCS (Pension) Rules, 1972 which deals with the grant of pro-rata retirement benefits to Government servants permanently transferred to Public Sector Undertakings, Autonomous Bodies etc. it is provided that "(i) Resignation from Government service with a view to secure employment in a Central Public enterprise with proper permission will not entail forfeiture of the service for the purpose of retirement/terminal benefits. In such cases, the Government servant concerned shall be deemed to have retired from service from the date of such resignation and shall be eligible to receive all retirement/terminal benefits as admissible under the relevant rules applicant to his parent organisation.

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Relying on this rule, the learned counsel for the applicant submitted that the applicant is also entitled to pro-rata pension.

7. It is further submitted that the Chief Administrative Officer of the Directorate of Plant Protection Quarantine & Storage vide his OM dated 1.9.97 had asked the LWO, Jodhpur to prepare pension papers of the applicant and forward the same to the Pay and Accounts Officer, Faridabad at the earliest and thereafter lot of correspondence was exchanged between the various departments and the applicant and ultimately the applicant vide his letter dated 15.12.1997 requested the department to finalise his pension case.

8. In the grounds to claim relief the applicant has submitted that his case is fully covered by the judgment of the Hon'ble Supreme Court in the case of T.S. Thiriruvengada Vs. Secretary to the Government of India, Ministry of Finance, Department of Expenditure reported in 1993 (2) SCC 174. He has also relied on the circular of the Government of India dated 3.1.1995 which entitles a Government servant to receive retirement benefits, as such he is also entitled to all the pensionary benefits on his permanent absorption in ONGC.

9. The respondents, who are contesting the OA have filed their reply. They submitted that when a legal notice was served upon them under Section 80 CPC, a detailed reply was given on 21.6.2000, therefore, no cause had arisen to the applicant to file the present OA.

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10. It is also submitted that they had taken up the matter of the applicant with the Department of Pension and Pensioner Welfare, who had indicated that pro-rata pensionary benefits are admissible to only those employees who had been absorbed in any Central Public Sector Undertaking prior to 16.6.67. Temporary/Quasi permanent employees are not entitled to payment of any pensionary benefits on absorption in a Public Sector Undertaking and as applicant was not a permanent employee, as such he is not entitled to pro-rata pension but is only entitled for terminal gratuity wef 23.5.51 to 3.3.96. Accordingly, the OA has no merits and the same should be dismissed.

11. We have heard the learned counsel for the parties and gone through the records of the case.

12. The only question which has to be decided is whether the applicant has rendered less or more than 10 years of service with the Central Government before getting absorbed in ONGC. I may mention here that the applicant had worked as a Central Government employee w.e.f. 23.5.51 till 2.3.1968, i.e. more than 15 years and ultimately he was absorbed in ONGC on 3.3.68, as such he is entitled to pro-rata pension and other benefits in view of the Circular of the Government of India dated 3.1.1995 wherein the judgment referred to by the applicant in the case of T.S. Thiruvangadam (Supra) has been referred to. The question with regard to the status of applicant whether he is permanent or temporary or quasi permanent cannot come in the way of the applicant as the applicant had worked for quite a long period.

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against a substantive post. So on this ground the applicant cannot be denied the benefit of grant of pro-rata pension. In this regard I may also refer to an earlier judgment of the Tribunal in OA 699/2000 K.C. Rastogi Vs. U.O.I. which also relied upon the judgment of the Apex Court in the case of Praduman Kumar Jain (Supra) and in the case of S.K. Bedi VS. U.O.I. (TA 25/88) wherein also a similar situation was there as employee was working as Mechanical Instructor in the Central Power and Water Commission (CPWC) and ultimately it was taken over by the Baira Sial Hydro-Electric Project where he got absorbed. In that case the OA was allowed and respondents were directed to grant pension and other retiral benefits for the services rendered by him with the Government of India.

13. Hence, I am of the considered view that the OA has to be allowed and applicant is entitled to pro-rata pension.

14. In view of the above, OA is allowed and respondents are directed to grant pro-rata pension and other benefits to the applicant for the period of service rendered in the parent department from 23.5.51 to 2.3.68 within a period of 4 months from the date of receipt of a copy of this order. No costs.


(KULDIP SINGH)
MEMBER(JUDL)

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