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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No.699 of 2000

New Delhi, this the 25th day of January, 2001

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

1. K.C. Rastogi
   S/o Shri M.L. Rastogi
   R/o 39/1350 DDA Flats,
   Madangir,
   New Delhi-110 062.

2. J.P. Tiwari
   S/o Late Shri Salik Ram Tiwari
   R/o B-31, New Township BTPS,
   Badarpur,
   New Delhi-110 044.

3. Ram Singh
   S/o Shri Bhullan Singh
   R/o 1487-WZ, Nangal Rai,
   New Delhi-110 046.

4. Sohan Singh
   S/o Shri Fateh Singh
   R/o 198-A, New Township BITS,
   Badarpur,
   New Delhi-110 044.

5. Raj Mani (Sharma)
   S/o Shri Inderbhan Prasad
   R/o Tajpur Pahari, Near Sharma Tent House,
   Badarpur,
   New Delhi.

6. P.P., Ouseph
   S/o Shri P.C. Porinchu
   R/o 159-A, New Township BTPS,
   Badarpur,
   New Delhi-110 044. -APPLICANTS

(By Advocate: Shri S.M. Ratanpaul)

Versus

1. Union of India
   Through the Secretary,
   Ministry of Power,
   Shram Shakti Bhawan,
   New Delhi.

2. The Secretary,
   Min. of Personnel, Public Grievances
   and Pensions, North Block,
   New Delhi.

3. The Chairman,
   Central Electricity Authority,
   Sewa Bhawan, R.K. Puram,
   New Delhi. -RESPONDENTS

(By Advocate: Shri A.K. Bhardwaj)

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ORDER

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

This is a joint application filed by the applicants wherein they are seeking relief to the fact that the applicants are entitled to their pro-rata pension and other retirement benefits like Leave Encashment, DCRG etc. to which they are entitled as per rules in lieu of service rendered with the respondents - Central Electricity Authority (CEA) before their absorption in NTPC.

2. The facts in brief are that these applicants were earlier working with the CEA and they were lateron absorbed in the National Thermal Power Corporation (NTPC):-

Applicant No.	Name	Date of Joining Central Govt.	Date of declaration as Quasi Permanent	Date of absorption in NTPC
1.	K.C. Rastogi	30.5.63	1.7.66	31.3.81
2.	J.P. Tiwari	3.4.68	3.4.71	31.3.81
3.	Ram Singh	3.8.68	3.8.71	31.3.81
4.	Sohan Singh	16.2.68	17.2.71	31.3.81
5.	Raj Mani (Sharma)	12.3.69	13.3.72	31.3.81

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6. P.P. Suseph 12.6.69 13.3.72 31.3.81

3. The applicants plea that under Rule 37 of the CCS (Pension) Rules, a Government servant who had been permitted to be absorbed in a post under Corporation or a Company wholly and substantially owned by the Government shall be deemed to have retired from the service from the date of such absorption and shall be eligible to receive retirement benefits which he may have elected or deemed to have elected. Further, according to Rule 49(2)(b) of the said Pension Rules, the minimum qualifying service required for this purpose under Central Government is 10 years. Thus it was pleaded that a Government servant who is absorbed in a Public Sector Undertaking owned wholly or partially by the Government, is entitled to pension if he has completed 10 years or more of service in the Central Government before his absorption in such a Public Sector Undertaking he is entitled to pro-rata pension from the department.

4. It is also pleaded that according to Rule 13 of the Pension Rules, qualifying service of a Government servant commences from the date he takes charge of the post either substantively or in an officiating capacity provided such officiating or temporary service is followed without interruption by substantive appointment in the same or another post or service.

5. It is also pleaded that an OM issued by the department of P&PW also stated that quasi permanent or temporary employees who retire on superannuation or on

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being declared permanently in-capacitated for further Government service after having rendered temporary service of not less than 10 years shall be eligible for grant of superannuation pension/invalid pension, retirement gratuity and family pension at the same scale as admissible to permanent employees under CCS (Pension) Rules, 1972. Besides that it is also claimed that the applicants be deemed to be entitled for pro-rata pension in view of the instructions dated 28.3.88.

6. The respondents are opposing the OA and their main ground is that the pro-rata pensionary benefits are eligible to the permanent Government servant on their absorption in Public Sector Undertaking and in the case of the applicants they are quasi permanent employees so they are not entitled for any pensionary benefits, rather they are entitled to Contributory Provident Fund benefits, gratuity and leave for their entire service, including service rendered in CEA. Besides that it is also stated that the OA is barred by time.

7. I have heard the learned counsel for the parties and have gone through the record.

8. The learned counsel appearing for the applicant has relied upon various judgments, one of such is S.K. Bedi Vs. U.O.I. & Others - TA 25/88. In that case also the applicant who was working as a Mechanic Instructor in the Central Water and Power Commission (CPWC) was declared quasi-permanent vide order dated 17.2.1965 and vide order dated 29.8.72 he was sent on deputation to Baira Sial Hydro-Electric Project, Himachal

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Pradesh where he got absorbed. In that case the TA was allowed and respondents were directed to grant pension and other pensionary benefits as may be due to the applicant and while deciding the TA the Tribunal had also relied upon the judgment of the Supreme Court in the case of Praduman Kumar Jain Vs. Union of India through Secretary to the Government of India, Department of Science and Technology, New Delhi and Another, JT 1994(4) SC 507.

9. The counsel for the applicant has also relied upon another judgment given in OA 2562/97 decided on 30.4.98. In that case also the applicants who were appointed as LDC in subordinate office of Central Water and Power Commission (CW&PC) between 1969-71 were subsequently declared quasi-permanent between 1972-74. They were later on transferred to NTPC when the Badarpur Thermal Power Project where they were working was transferred to NTPC and on absorption in the NTPC, the applicants sought their pensionary benefits from the CWPC including pro-rata pension. Therein also the respondents had taken a plea that the applicants were quasi-permanent in CW&PC and they were entitled to terminal benefits, gratuity and pro-rata pension. In that case also the Court after referring to Praduman Kumar Jain (Supra) and S.K. Bedi (Supra) allowed the OA and directed the respondents to calculate the arrears of the pension to the applicants along with 12% interest from the date of due till the actual payment of such arrears and while allowing the OA, the court had also taken into consideration the terms of Rule 37 read with Rule 13 of the CCS (Pension) Rules and the court had come to the

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conclusion that the applicants are entitled to pro-rata pension. Since the facts of the present case in hand are also similar to the facts of the case in S.K. Bedi, Praduman Kumar Jain and in OA 2562/97 and the plea taken by the respondents in this case as well as in other cases were similar that the employees being quasi permanent are not entitled to pro-rata pension but are entitled to terminal benefits, so I find no reason to differ with the judgment referred to above and since in this case also the applicants were holding the post in CEA in a substantive capacity, so the applicants are entitled to the benefits.

10. In view of the above, OA is allowed. The respondents are directed to calculate and pay the arrears of the pension to the applicants within a period of three months from the date of receipt of a copy of this order along with 12% interest from the date due till the actual payments of such arrears. No costs.

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(KULDIP SINGH)
MEMBER(JUDL)

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