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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

C.P. No. 305/2003 In
O.A. No. 1032/2000

New Delhi this the 23rd of February, 2004.

HON'BLE MR. KULDIP SINGH, MEMBER (J)
HON'BLE MR.S.A. SINGH, MEMBER (A)

Dr. S.D. Sharma
S/o SHri S.N. Sharma
R/o D-127 Preet Vihar,
Delhi-110 091.

...Applicant

By Advocate: Shri A.K. Behera.

Versus

1. Shri J.V.R. Prasad Rao
Secretary,
Ministry of Health and Family Welfare,
Department of Health,
Nirman Bhawan,
New Delhi-110 011.
2. Shri S.P. Aggarwal
Principal Secretary,
Government of NCT, Delhi,
Medical and Public Health Department,
5-Sham Nath Marg,
Delhi-110 054.
3. Shri O.J. Singh
The Pay and Accounts Officer,
Directorate General of Health Services,
Nirman Bhawan,
New Delhi. ...Respondents

By Advocate: Shri V.S.R. Krishna.

O R D E R (ORAL)

The applicant has filed this CP alleging that the order passed in the OA has not been complied with.

2. Facts in brief are that the applicant had filed an OA seeking the benefit of Rule 30 of the CCS (Pension) Rules, 1972 giving 5 years of additional qualifying service for the pensionary and retirement benefits. The said OA was allowed and following directions were given:-

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" The OA is, therefore, allowed and the respondents are directed to extend the benefit of Rule 30 ibid to him and as a consequential benefit his pensionary and retiral benefits shall be re-calculated and arrears should be paid to him with a simple interest of 10% per annum. The aforesaid directions shall be complied with by the respondents within a period of three months from the date of receipt of a copy of this order".

3. Thereafter the respondents passed an order dated 29.7.2002 with a copy to the applicant wherein they agreed that the applicant is eligible for the benefit of 32 years 10 months and 226 days after getting the above benefit under CCS (Pension) Rules, 1972. This order was passed on 29.7.2002. However, a corrigendum was issued on 13.8.2002 where it was stated that this benefit should be read as 32 years 3 months and 27 days instead of 32 years 10 months and 26 days. The letter was written to the Pay and Accounts Officer, Directorate of CHS, Nirman Bhawan, New Delhi.

4. The Pay and Accounts Officer was advised vide another letter dated 12.12.2002 with the following directions:-

" In case a Government official is recruited ab initio to a post carrying Rule 30 benefit and later on moves over to another post as direct recruit carrying Rule 30 benefit it will not be fair to deny him the benefit of Rule 30 for the whole benefit of service under the Government. In cases like this the benefit should be allowed on merit of the case even by relaxation of Rules. The Ministry pointed out that in view of the above both the benefits were given to DR.G.K. Vishwkaram, Dr. Bansal and Dr. V.P. Bansal, i.e., counting of past service and benefit of added years of service under Rule 30 of CCS (Pension) Rules".

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5. But despite that the qualifying service of the applicant was counted for the period of 29 years 11 months and 11 days after adding the 5 years of service as per Rule 30 of the CCS (Pension) Rules, 1972 and the consequently payments had been released to the applicant.

6. The applicant is still not satisfied and submits that the qualifying service of the applicant has been reduced from 32 years 3 months 27 days to 29 years 11 months and 11 days as the respondents had excluded the past service of the applicant which he had rendered in the earlier department so the applicant claims that he should have been given the benefit of past service for counting. The same as qualifying service and then he should also be given the benefit of 5 years added service on total qualifying service.

7. Thus it is submitted that by not calculating the qualifying service properly and by excluding the past service, the respondents have committed contempt of court.

8. The counsel for the applicant has referred to the advice given by the Director General of Health Services vide their letter dated 12.11.2002 wherein they had mentioned that similarly placed three other doctors Dr. G.K. Vishwakaran, Dr. Bansal and Dr. V.P. Bansal were given the benefit of counting of past service as well as added years of service so the applicant should have also been given the similar benefits.

9. The respondents had produced before us the office record showing that this aspect was also considered by the competent authority while counting the qualifying service. The benefit of past service was given to these above referred three doctors by virtue of

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a judgment given by the Central Administrative Tribunal whereas in this case the Tribunal has directed only to the effect that the benefit of Rule 30 of the CCS (Pension) Rules is to be given to the applicant and Rule 30 has a methodology for counting the past service and thus adding 1/4th of the past service or 5 years as per the provisions of Rule 30 which is the least of the three and since this court had directed that the benefit of Rule 30 be given so the respondents had rightly given the benefit of Rule 30 by adding 5 years of qualifying service and respondents have taken a stand that the applicant was not entitled to both the benefits, i.e., counting of past service as well as Rule 30 for adding 5 years of service.

10. We have also gone through the note recorded by the competent authority and we find that the competent authority had also kept in mind the case of the three doctors who have been quoted in the letter dated 12.12.2002 and then on their interpretation came to the conclusion that the applicant is only entitled to count 5 years of service but not the period of service rendered in the past.

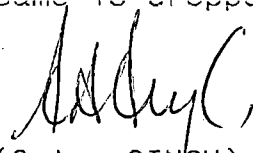
11. In these circumstances we have to consider whether the respondents have wilfully committed any contempt or not. We are also conscious of the fact that in the contempt proceedings the jurisdiction is a limited one and in case the respondents after interpreting the rule judiciously have come to the conclusion that the applicant's past service is not to be added towards qualifying service unless there is a specific direction by the court as it was in the case of three other doctors. So while exercising the jurisdiction under the

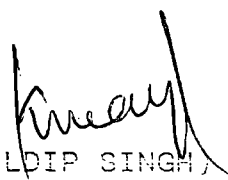
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Contempt of Court Act and Rule 17 of the CAT (Procedure) Rules this court cannot enlarge the scope of the relief granted by the Tribunal. The directions given by the Tribunal has to be implemented as per the orders passed by the court. The Tribunal had simply directed the respondents to give the applicant the benefit of provisions of Rule 30 of the CCS (Pension) Rules and respondents in their own wisdom after applying their mind and after interpreting Rule 30 have added 5 years of service to the qualifying service of the applicant so we do not find that there is any wilful or contumacious disobedience of the directions given by the court and in case the applicant is not satisfied with the orders passed by the respondents the applicant is at liberty to approach the court by way of separate proceedings in accordance with the law to challenge the order passed by the respondents e in compliance with the order of this Court.

12. In view of the above, CP has no merit and the same is dropped. Notices discharged.


(S.A., SINGH)
MEMBER (A)


(KULDIP SINGH)
MEMBER (J)

Rakesh