

CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

OA No.1816/89

Date of decision: 21.05.1993.

Shri Subarta Chatterjee

...Petitioner

Versus

Union of India through the

General Manager, Northern

Railway, New Delhi

...Respondents

Coram: The Hon'ble Mr. I.K. Rasgotra, Member (A)

For the petitioner

Shri, Umesh Mishra, Counsel.

For the respondents

None

Judgement(Oral)

The case of the petitioner is that he joined the Northern Railway, Diesel Shed, Tughlakabad on 19.4.1973 as a Diesel Cleaner. He was promoted as Electrical Fitter in 1977. In 1982 he was sent to N.T.P.C. as Technician Grade II through Rail India Technical and Economic Service Ltd. He resigned from the Railways. His resignation was accepted vide order dated 6.12.1985 w.e.f. 19.1.1984. On his absorption in the N.T.P.C the petitioner represented for payment of pro rata pension etc. to the respondents. The learned counsel for the petitioner says that his representation was not answered. For the pro rata pensionary benefits the petitioner relies on the copy of the letter dated 10.5.1978 according to which permanent Government servants can retain lien in their parent department after securing employment in Public Sector Undertaking by applying through proper channel. If they do not wish to retain their lien they can claim their retirement

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benefits straightway. This O.M. is applicable only to permanent Government servants. The learned counsel for the petitioner has filed a copy of the letter No.725-E/10/927/P.7 dated 11.1.1982, addressed by D.R.M. New Delhi to Sr. D.M.E. (DSL), Northern Railway, Diesel Shed, Tughlakabad, according to which the lien of the petitioner was retained in his parent department for two years pending absorption in RITES/NTPC.

2. The stand of the respondents in the counter-affidavit is that the petitioner was an unconfirmed employee. He had rendered 10 years' and 9 months service. The unconfirmed employees with 10 years and 9 months service were not eligible for pro-rata pension. As such the pro rata pensionary benefits cannot be granted to him. He has, however, been paid retirement benefits, as due to him, as is apparent from Annexure-A filed alongwith the O.A. The respondents have not brought out any documentary evidence that the petitioner was an unconfirmed employee.

3. I have heard the learned counsel for the petitioner and perused the record carefully. The learned counsel for the petitioner has filed documentary evidence that the petitioner was allowed to keep <sup>his lien</sup> ~~him~~ for 2 years. In case the petitioner was an unconfirmed employee his lien could not have been retained for two years, as appears to have been done vide D.R.M's letter dated 11.1.1982. I have no reason to doubt the veracity of the contents of DRM's letter dated 11.1.92. In view of the documentary evidence now produced by the learned counsel for the petitioner, I incline to take the view that the petitioner had been confirmed, as otherwise the question

of retaining his lien in the parent department would not arise. In the above facts and circumstances of the case the respondents are directed to grant pro rata retirement benefits to the petitioner, as applicable under the rules within a period of 4 months from the date of communication of this order. No costs.

  
(I.K. RASGOTRA)  
MEMBER(A)

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