

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI

O.A.No.2400/89

New Delhi: ¹¹November ²¹, 1994.
_{December}

HON'BLE MR. C.J.ROY, MEMBER(J)

HON'BLE MR. S.R.ADIGE, MEMBER(A)

Shri Om Prakash Malik (through
L.Rs Smt. Pushpa Rano,)

s/o Late Shri Daulat Ram,
I-150, Phase-I, Ashok Vihar,
New Delhi - 110 052Applicant.

By Advocate Shri M.L.Chawla.

VERSUS

1. Union of India,
through the Secretary,
Ministry of Communication,
Deptt. of Telecommunication,
Sanchar Bhawan,
New Delhi.
2. The General Manager,
Maintenance (NTR),
Kidwai Bhawan,
New Delhi.
3. The Chief Superintendent,
Central Telegraph Office,
Eastern Court, Janpath,
New Delhi.Respondents.

By Advocate Shri B.Lall.

JUDGMENT

By Hon'ble Mr. S.R.ADIGE, MEMBER (A).

In this application, Shri Om Prakash Malik, retired Telegraphist has prayed for counting of the temporary service rendered by him from 25.5.51 to 9.12.57 for the purpose of pension and for consequential revision of his pension from 949/- to 1010/- p.m.

2. The grounds taken are that the denial of this period towards pension is wrong and unjustified; that he received annual increments for this period and as such it should be counted

for pension; that the pension is no longer a bounty but a right of a Govt. servant on his retirement because Rules 13 and 14 of the CCS (Pension) Rules enjoin that such service rendered by the applicant should be counted towards pension, because when even a casual labourer is eligible for pension, the six years temporary service cannot be disregarded for pensionary purposes.

3. The respondents in their reply have contested the O.A. and stated that the applicant was engaged as a non-departmental Telegraphist w.e.f. 25.5.51 at the rate of 3-8 Annas per day on 'NO WORK NO PAY BASIS', and this was purely a casual appointment and thereafter by Memo dated 21.9.47 (Annexure -AII), the applicant was treated as temporary Telegraphist for the purpose of pay and allowances and other privileges of appointment except appointment as a regular Telegraphist. Eventually, he was regularised w.e.f. 10.12.57. The respondents state that the period from 25.5.51 to 9.12.57 cannot be, therefore, counted towards pension as the applicant worked as a non-departmental/ temporary hand for this period, which was not admissible for pensionary benefits as it was clearly mentioned in the letter dated 27.9.47 that it would carry privileges of pay and allowances and other benefits, except appointment in the regular cadre. It has also been pointed out that the applicant represented for the first time for counting of this period for pensionary benefits on 3.6.87, i.e. after nearly 30 years from the date of regularisation

and even that representation was incomplete, as such this application is grossly time-barred.

4. Although the applicant relies upon the rules 13 and 14 of the CCS(Pension) Rules, the actual position is that they have no application to the facts of this case. Rule 13 is attracted only when the applicant takes charge of the post, but there is nothing on record to establish that the applicant took charge of any post during the period 25.5.51 to 9.12.57, because his initial appointment was as a non-departmental Telegraphist @ 3-8 Annas per day with the specific condition 'NO WORK NO PAY BASIS' and was casual in nature. Government of India's Decision No.2 under Rule 14 CCS(Pension) Rules (Swamy's Compilation 1993 Edition) also has no application because even if the applicant was paid from the contingencies, the weightage for the past service would be limited to the period after 1.1.61 and not before.

5. Further more, from a copy ^{of} P & T letter dated 31.8.55, addressed to all Heads of Circles, copies of which have been forwarded to all concerned by the Chief Superintendent, Central Telegraph Office, New Delhi, ^{in vide enforcement d 24.7.93} regarding the fixation of pay of non-departmental Telegraphists on his subsequent absorption as CS Telegraphist, it has specifically been stated that while these non-departmental Telegraphists may be allowed to count their service on time scale for the purpose of drawing increments on their subsequent absorption as CS Telegraphists,

- 4 -

the service as N.D. Telegraphist would not be counted for any other purposes such as pension etc.

6. The other grounds advanced by the applicant are general in nature and do not require detailed discussion.

7. In this connection, it is noted that the applicant himself expired sometime back and his L.Rs have been brought on record. In the light of the discussion above, no good case is made out to warrant any interference by us in this matter and the O.A. is, therefore, dismissed.

8. No costs.

S.R. Adige
(S.R. ADIGE)
MEMBER (A)

2/12/94
(C.J. ROY)
MEMBER (J)

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