

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 912
T.A. No.

1989

DATE OF DECISION 22.2.90P.C. Patchigar

Petitioner

Shri K.L. Bhandula

Advocate for the Petitioner(s)

Versus

Union of India & others

Respondent

Shri M.L. Verma

Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. G.Sreedharan Nair, V.C.

The Hon'ble Mr. P.C.Jain, M(A)

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

Registration No. O.A.912 of 1989

Date of Decision 22.2.1990

B.C. Patchigar

Applicant

- versus -

The Union of India and others ..

Respondents

CORAM:

Hon'ble Shri G.Sreedharan Nair, Vice-Chairman

Hon'ble Shri P.C. Jain, Member (Administrative)

Counsel for the applicant : Shri K.L. Bhandula

Counsel for the respondents : Shri M.L. Verma

O R D E R

(Passed by Hon'ble Shri G.Sreedharan Nair, Vice-Chairman) :-

The applicant served under the Central Government in the Central Water and Power Commission as a temporary Supervisor in the Kakrapar Weir and Canals Project during the period from 8.9.1952 till 1.6.1954 when the Project was transferred to the Government of Bombay. Thereafter, he continued to work in the Project till 10.12.1954 on which date he submitted his resignation. With effect from 14.12.1954 he was appointed in the Central Water Commission as Design Assistant, from where he retired on superannuation on 31.10.1982. His grievance is in respect of his pension. According to him, his period of service from 8.9.1952 to 10.12.1954 has been illegally not reckoned as qualifying service for pension. He prays for the issue of an appropriate direction to the respondents to count the said period for pensionary benefits and to allow him pension accordingly.

2. In the reply filed by the respondents, it is stated that when the Project was transferred to the Government of Bombay with effect from 1.6.1964, services of the applicant, who was a temporary employee, stood transferred to the Government of Bombay where he worked till 10.12.1954. It is pointed out that his appointment as Design Assistant with effect from 14.12.1954 was a fresh appointment and as such he is not entitled to have the benefit of the earlier service in view of the O.M. dated 31.3.1982 issued by the Department of Personnel and Administrative Reforms. It is further stated that the Government of Gujarat have expressed their unwillingness to accept the proportionate pensionary liability in respect of the service rendered by the applicant during the period from 8.9.1952 to 10.12.1954.

3. Admittedly, the applicant was under the service of the Central Government from 8.9.1952 till 1.6.1954. Again the applicant continued under the service of the Central Government with effect from 14.12.1954. The applicability of the O.M. relied upon by the respondents has relevance only in respect of the service rendered by the applicant during the intervening period, under the State Government. Though the provisions of the O.M. do not warrant the treatment of the said period as qualifying service, in view of clause (a) of rule 28 of the CCS(Pension) Rules, the pre-interruption service from 8.9.1952 to 1.6.1954 has to be treated as qualifying service. The respondents have no case that there is a

specific indication to the contrary in the Service Book of the applicant. Hence, the action of the respondents in not taking ~~any~~ ^{into} account ~~of~~ the said period as qualifying service for the computation of the pension of the applicant cannot be sustained.

4. Since the applicant retired from service on 31.10.1982 and the present application has been filed only in the year 1989, he cannot claim any arrears of pension on this account. What he is entitled to is only to have a refixation of his pension taking into account the period from 8.9.1952 to ~~31.5.1954~~ also as qualifying service and to the pensionary benefits ^{of this order} on this basis, from ~~this~~ date. We direct the respondents to comply with this order forthwith.

5. The application is disposed of as above.

(P.C.Jain)
Member (A)

(G.Sreedharan Nair)
Vice-Chairman