

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

OA No. 1278/88

New Delhi this the 12th day of November, 1993.

Hon'ble Mr J.P.Sharma, Member(J)

Hon'ble Mr B.N.Dhondiyal, Member(A).

Shri Sunit Tyagi, S/O late Shri R.K.Tyagi, III-E/27,
Nehru Nagar, Gaziabad, U.P. Applicant.

(though represented through counsel yet none
appeared when the case was taken up for hearing).

vs.

1. Secretary, Central Board of Excise & Customs,
Central Secretariat, North Block, New Delhi.
2. Collector, Central Excise, Bhaishali Grounds,
Meerut.
3. Assistant Collector, Central Excise Division
No.III, Ghaziabad. Respondents.

(though represented through counsel yet none
appeared when the case was taken up for hearing).

Order(oral)

Sunit Tyagi, the applicant is the son
of late Shri R.K.Tyagi, who was employed as
U.D.C. in the Central Excise Division No.III,
Gaziabad and expired on 9.1.1988. Before his
death, Shri Tyagi submitted a representation
dated 27.7.1987 to the Secretary, Central Board
of Excise & Customs, for counting his services
which he rendered in the Central Excise Deptt.
for pensionary benefits against the decision of
authorities of Central Excise, Collectorate Meerut.
Since the deceased employee did not get any
reply to his representation and died in the
meantime, the legal representative of the

employee filed this application under Section 19 of the Administrative Tribunals Act, 1985 on 22nd June, 1988.

2. The relief claimed by the ward of the deceased employee is that a direction be issued to respondents to count the services rendered by his father for the period from 26.11.1955 to 30.11.1965 for awarding pensionary benefits to him and now after his death, the payment of the ~~arrears~~ be made to the legal representative - the applicant. A notice was issued to the respondents who filed their counter to contest the application and opposed the grant of the relief. The respondents stated that the deceased employee was already granted the benefit of the service rendered by the deceased employee in rationing department and in view of the circumstances of his being appointed as U.D.C., he could not be granted the benefit of past services rendered w.e.f. 22.11.1955 to 30.11.1965 on account of his fresh appointment. In fact after termination of the services of the deceased employee under Rule 5(1) of the C.C.S. (Temporary) Rules, 1965, the applicant was given a fresh appointment and in view of this fact he could not as a matter of right claim the counting of his earlier services rendered. The applicant's fresh appointment was only his posting de novo which has nothing to do with the earlier services rendered by him.

3. Since this was an old case and none appears on behalf of the parties, we propose to decide the case on the basis of the pleadings on record.

4. Having gone through the pleadings and rival contention of the parties in the Original Application as well as the reply filed thereto, since no rejoinder has been filed we find that the present application is totally devoid of any merit. The O.A. is, therefore, dismissed, leaving the parties to bear their own costs.

B.N.Dhondiyal
(B.N.Dhondiyal)

Member (A).

J.P.Sharma
(J.P.Sharma)

Member (J)

12th Nov., 1993.
/sds/