

(6)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. 384#88

Date of decision 11.10.91

Sh.B.S.Jethra

Applicant

Sh.R.L.Sethi

Counsel for the applicant

Versus

Union of India & Ors.

Respondents.

Sh.M.L.Verma

Counsel for the
respondents.

CORAM:

The Hon'ble Sh.Justice Ram Pal Singh, Vice Chairman (J).
The Hon'ble Sh.I.P.Gupta, Member (A).

J U D G E M E N T

(Delivered by Sh.I.P.Gupta, Member(A)).

In this application filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant who was initially recruited as a Section Officer (Civil) (J.E.Civil) in the C.P.W.D. and declared quasi-permanent w.e.f. 25.11.67, qualified in the combined Engineering Services Examination held by U.P.S.C. in 1974 and was appointed as Assistant Engineer Class II in the P & T Board w.e.f. 9.2.76. The applicant had applied for appearing in the said examination through proper channel i.e. C.P.W.D. He was duly relieved by C.P.W.D. to join P & T (Civil Wing). His ^{appointment} ~~joining~~ letter as Assistant Engineer (Civil) on the basis of the Combined Engineering Services Exam read as follows:

"The appointment is against a temporary post likely to be made permanent and you will be on probation for a period of two years from the date of appointment which may be extended or curtailed at the discretion of the Appointing Authority".

2. The applicant qualified himself in all the departmental examinations and completed the period of probation on 21.4.79. According to the applicant there were several permanent posts of Assistant Engineering (Civil) available and he

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could have been confirmed against one of them, but he was not so confirmed.

3. Consequent on his selection for appointment to the post of Dy. Manager (Civil Construction) in the Gas Authority of India Ltd, The applicant was relieved from the P & T Board on the afternoon of 30.12.85.

4. The applicant's case is that the Gas Authority of India Ltd. being a Public Sector Undertaking, the respondents were under obligation to have settled/paid his retiral benefits in accordance with the extant rules, for the period from 25.11.64 to 30.9.85. But his retiral benefits have not yet been paid.

5. The applicant has sought for the following reliefs:

- i) The respondents may be directed to make full payment of retiral benefits including pension, gratuity, commuted value of pension, encashment of leave, along-with interest @ 18% from 1st October '85 as he was relieved from P & T Department to join the Gas Authority of India Ltd. on the afternoon of 30th September 1985.
- ii) The applicant should be declared permanent in the grade of Assistant Engineer (Civil) w.e.f. 22.4.79
- iii) The applicant should be declared as permanent in the grade of Junior Engineer (Civil) from 1.4.81 or before that.

6. The applicant has quoted the judgement of the Principal Bench, Central Administrative Tribunal in the O.A. 72/88 as dated 29.3.89 wherein retiral benefits were ordered to be paid with interest. In that case the applicant had joined the State Bank of India on 16th September '85 and interest

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on pension @ 7% was allowed w.e.f. 15.3.86 i.e. after six months of his joining State Bank of India and on the D.C.R.G. @ 10% from that date. It was also ordered therein that the interest rate on pension will be enhanced to 10% w.e.f. 3.6.88 (i.e. the date from which the confirmation order was passed) till the actual payment is made.

7. The learned counsel for the respondents pointed out that the applicant was recruited to the post of Assistant Engineer on temporary basis and at the time of his joining the Public Sector Undertaking he was still holding a temporary post. He was, therefore, not entitled to pensionary benefits on permanent absorption in a Public Section as he was a temporary Government servant.

8. During the course of hearing it was brought out that the applicant has since been confirmed w.e.f. 22.4.79, as prayed for, and the orders to this effect have been issued on 22.9.88. It was also brought out that the retiral benefits have been ordered to be paid.

9. The applicant has already been confirmed as Assistant Engineer (Civil). The relief sought at (ii) has become infructuous. Since he has been confirmed in higher post, his confirmation in a lower post also ^{has} become irrelevant. The retiral benefits have also been ordered to be paid.

10. A short point that remains is about payment of interest. On the analogy of the decision taken in O.A. 72/88, we direct that the respondents should pay interest on the pension @ 7% w.e.f. 1.4.86 and on the D.C.R.G. @ 10% from that date. The interest rate of pension will be enhanced to 10% w.e.f. 22.9.88 till the actual payment is made. We, further direct

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that the retiral benefits alongwith interest as indicated above should be paid within a period of three months from the date of receipt of a copy of this order.

11. The application is accordingly disposed of with the aforesaid direction and order. Parties will bear their own costs.

I.P. Gupta
(I.P.GUPTA) 11/10/91

MEMBER(A)

Ram Pal Singh
(RAM PAL SINGH) 11.10.91

VICE CHAIRMAN(J)