

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH : NEW DELHI

OA No.1206/88

Date of decision: 11.10.1993

Shri Karnail Singh

Versus Union of India

CORAM:

Hon'ble Shri C.J. Roy, Member (J)

Hon'ble Shri V.K. Seth, Member (A)

For the applicant .. Shri Karnail Singh in person

For the respondents.. Shri K.L.Bhandula, counsel for
R-1 to R-3

Shri N.S. Mehta, counsel for R-4

JUDGEMENT (ORAL)

(Delivered by Shri C.J. Roy, Hon'ble Member (J))

This application is filed by the applicant claiming a relief for counting of his past service for pensionary and other benefits as per rules in accordance with Rule 26 (2) of CCS Pension Rules.

2. Brief facts leading to the filing of this application are that the applicant was originally working as Section Officer (Mechanical) in the Beas Sutlej Link Project from 4.5.72 to 13.10.76. He applied for appearing in Combined Engineering Services Examination of UPSC held in the year 1975 and no objection certificate was given by the Department vide Annexure A-I. Subsequently he was selected and got the offer of appointment and also joined the new Department, i.e. Central Electricity Authority, New Delhi with effect from 14.10.76.

6

3. The preliminary objections taken by the respondents in their counter are that firstly the application is barred by limitation, secondly the resignation letter submitted by the applicant does not contain the reasons that he is going to take up appointment in the Central Electricity Authority and thirdly the notice period of one month is short of 17 days.

4. We have heard the applicant in person and also the learned counsel for Respondents No.1 to 3 Shri K.L.Bhandula and the learned counsel for Respondent No.4 Shri N.S.Mehta and perused the records.

5. Now we are dealing with the above 3 points one by one. As regards the first objection, we find at Annexure V (page 8) a Memorandum No.4/29/82-Admn.I(CEA) dated 26.2.88 from the Central Electricity Authority addressed to the applicant wherein it says that "With reference to his application dated the 12th December, 1986 regarding counting of past service rendered in Beas Sutlej Link Project towards pension, Shri Karnail Singh, Deputy Director, is informed that his request has been considered in the Department of Power but they have regretted to accede to the same". Having seen this, we have no hesitation to hold that the applicant has achieved the purpose of overcoming the limitation because the respondents have chosen to treat his letter dated 12.12.86 also without refusing him on limitation point but they have replied regretting to accede to the request of the applicant. Under the circumstances, the cause of action to the applicant arises on 26.2.88. Therefore, we see no ground for holding

7

that it is barred by limitation under Section 21 of the Administrative Tribunals Act. The OA is filed on 10.6.88, i.e. within six months of the rejection letter.

6. Taking the second point into consideration, it is true that the resignation letter dated 4.10.76 does not contain the reasons for his resignation but it is sent through proper channel and addressed to the Superintending Engineer, BSI Admn. & A/Cs. Circle, S/Nagar. However having seen the "No objection" letter dated 28.4.75, we are satisfied that permission for appearing in Engineering Services Examination (UPSC) 1975 was granted by the Superintendent Engineer vide letter No.9816/PF dated 25.4.75. It clearly shows that the respondents were aware that the applicant has appeared in the Engineering Services Examination in the UPSC and it follows naturally as a matter of fact, by giving no objection, that if he succeeds in the examination, they might have no objection for joining the new service. The resignation is purely technical in nature and therefore it is not proper to deny the applicant his full service rendered by him in Beas Sutlej Link Project. It is also categorically admitted in Appendix 6, in a DO letter No.2892/BPC dated 23.12.85 from the Chairman, Beas Sutlej Management Board addressed to the Chairman, Central Electricity Authority that "It is however confirmed that Mr. Karnail Singh rendered service on the Beas Project from 04 May 72 FN to 13 Oct 76 AN". By this clear admission and also after giving no objection certificate, we are of the view that because no reason was mentioned in the resignation letter, which is purely

my

8

technical in nature, the applicant should not be put to hardship after he has rendered long service, when he is seeking counting of past service for pensionary benefits.

7. As regards the notice of resignation was short of 17 days, it is admittedly stated that his salary for 17 days was deducted from his salary by the Respondent No.4.

8. Under the circumstances, we allow this OA and direct the respondents to count the applicant's past service for the purpose of his pensionary benefits. This exercise shall be completed within three months from the date of receipt of this judgement.

9. The application is thus disposed off with no order as to costs.

V.K. Seth
(V.K. Seth)
Member (A)
11.10.93

C.J. Roy
(C.J. Roy)
Member (J)
11.10.93