

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

6
O.A. No. 183
TAXXNO.

1986

DATE OF DECISION 21.10.1987

Shri Ashok Kumar Wali Petitioner

Shri M. K. Dua Advocate for the Petitioner(s)

Versus

Secretary, Min. of Steel & Mines Respondent

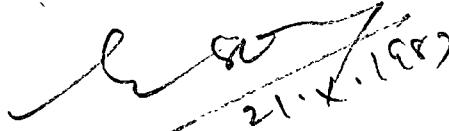
Mrs. Raj Kumari Chopra Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. S. P. Mukerji, Administrative Member

The Hon'ble Mr. G. Sreedharan Nair, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement ? Y
2. To be referred to the Reporter or not ? Y
3. Whether their Lordships wish to see the fair copy of the Judgement ? N


(G. SREEDHARAN NAIR)


(S. P. MUKERJI)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 183/86

DATE OF DECISION : 21.10.87

Shri Ashok Kumar Wali . . . Applicant

Versus

Secretary, Ministry of Steel and Mines . . . Respondents

Shri M.K. Dua . . . Counsel for Applicant

Mrs Raj Kumari Chopra . . . Counsel for Respondents

CORAM

The Hon'ble Mr. S. P. Mukerji, Administrative Member

The Hon'ble Mr. G. Sreedharan Nair, Judicial Member

(Judgment of the Bench pronounced by Hon'ble Mr. G. Sreedharan Nair, Judicial Member)

The grievance of the applicant in this application, whose request for voluntary retirement from service was sanctioned with effect from 29.1.1984, is against the refusal of pension by the order dated 19.3.1985 on the ground that he has not rendered twenty years of qualifying Government service.

2. The applicant joined the Oil and Natural Gas Commission (for short the ONGC) on 11.10.1958 as Geo-Physical Assistant. On 15.10.1959 the ONGC became a statutory corporate body. The applicant worked there till 21.7.1961. From 22.7.1961 he was working in the Geological Survey of India as Geo Physicist. It is on the ground that the service rendered by the applicant during the period from 15.10.1959 to 21.7.1961 cannot

be counted for the purpose of qualifying service that the impugned order dated 19.3.1985 has been passed, denying pension to the applicant. This order is challenged by the applicant on the ground that when once his request for voluntary retirement has been accepted by the President of India the refusal of pension is illegal.

3. A reply has been filed by the First respondent wherein it is contended that the application is not maintainable as it is not against any order. The applicant had intentionally given a written declaration that he had completed twenty years of service, whereas he had actually only 18 years of service. It was on the basis of the statement made by the applicant in his letter seeking voluntary retirement that the request was accepted.

4. The preliminary objection raised by the respondents is devoid of merit, for the communication dated 19.3.1985 to the applicant contains the decision that the applicant is not entitled to pension. As the applicant is aggrieved by the said decision he is entitled to approach the Tribunal as per the provisions of the Administrative Tribunals Act, for after coming into force of the Act no other Court except the Supreme Court has the jurisdiction to consider the question.

5. On merits, ~~the~~ ^{the} two contentions of the respondents does not deserve acceptance. Rule 48A of the Central Civil Services (Pension) Rules, 1972 enables ~~the~~ ^a Government servant who has completed twenty years of qualifying service to retire from

service by giving a notice of not less than three months in writing to the appointing authority.

On 28.1.1984 the applicant had given such a notice and therein he had also indicated that the pension contribution for the period of his service in the ONGC from 11.10.1958 to 21.7.1961 along with 6% simple interest thereon is payable by him. He had expressed his willingness to pay the same, or in the alternative he requested that it may be deducted from the retirement benefits due to him.

The applicant was informed that the service rendered by him in the ONGC will be counted towards service for the purposes of pension only during the period from 11.10.1958 to 14.10.1959 when it was a Government department, and not during the period from 15.10.1959 to 21.7.1961 when it was an autonomous body. ^{However,} ~~Further~~ by the letter dated 25.4.1984 from the Government of India addressed to the Director General, Geological Survey of India, copy of which was sent to the applicant as well, it was clearly stated that the President of India is pleased to accept the voluntary retirement of the applicant under Rule 48A of the Central Civil Service(Pension) Rules, 1972, with effect from 29.1.1984.

6. The question that arises is whether after the sanction of the President was accorded to the request of the applicant for voluntary retirement under Rule 48A of the Central Civil Service (Pension) Rules, 1972 it can be contended by the Government of India that the applicant is not entitled to

pension on the ground that he has not rendered twenty years qualifying Government service. We have no doubt that it has to be answered in the negative. The sanction can be accorded for voluntary retirement from service only after a Government servant has completed 20 years of qualifying service. There is no case for the respondents that the sanction accorded to the applicant accepting his request for voluntary retirement as communicated to him has subsequently been cancelled. In the face of the said sanction, which we have to take, was accorded only after satisfying that the applicant has rendered the necessary qualifying service, it is not open to the respondents to take a stand opposed to it. We do not find any merit in the plea of the respondents that the sanction was accorded merely acting on the statement in the letter of the applicant seeking voluntary retirement, for without satisfying itself about the requisite qualifying service it cannot be accepted that Government accorded sanction.

7. It follows that pursuant to the acceptance of the request of the applicant for the voluntary retirement the respondents are to pay all retirement benefits to the applicant treating him as having the prescribed qualifying service. The contributions to be made by the applicant during the period of his service with the ONGC from 11.10.1958 to 21.7.1961 with 6% simple interest thereon shall be deducted from the retirement benefits. We direct the respondents to comply with this order within a period of three months from the date ^{of} receipt of the copy of the same. The application is disposed of accordingly.

21-4-1987
(G. SREEDHARAN NAIR)
JUDICIAL MEMBER

24-4-87
(S. P. MUKERJI)
ADMINISTRATIVE MEMBER