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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 571 1986
T.A. No.

DATE OF DECISION 13th April, 1987

Shri Kartar Chand Sharma Petitioner

Shri R.P.Bansal, Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondents

Mrs. Avnish Ahalwat for R-1 to 3 Advocate for the Respondent(s)
Shri M.M.Sudan, Adv. for R-4 & 5

CORAM :

The Hon'ble Mr. Justice K.S.Puttaswamy, Vice Chairman

The Hon'ble Mr. Birbal Nath .. Member (AM)

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

13/4/87
(BIRBAL NATH)
MEMBER (AM)

K. S. Puttaswamy
(K.S.PUTTASWAMY)
VICE CHAIRMAN

13/4/1987

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Dated this day the 13th day of April, 1987

Present :

THE HON'BLE MR. JUSTICE K.S. PUTTASWAMY - VICE CHAIRMAN
THE HON'BLE MR. BIRBAL NATH .. MEMBER (AM)

APPLICATION NO. 571 OF 1986

Shri Kartar Chand Sharma
S/o Pt. Brij Lal
559/7-A, Vijay Park,
Gali No.9, Maujpur,
DELHI-110053

APPLICANT

(By Shri R.P. Bansal, Advocate for the applicant)

-vs.-

1. Union of India
Ministry of Home Affairs,
North Block, Newdelhi
by its Secretary.
2. Delhi Administration
Delhi-54
3. Director of Civil Defence
and Home Guards, H.Qrs.,
'A' Block, (2nd floor)
Vikas Bhavan, Indraprastha Estate,
New Delhi-2
4. State of Punjab through Chief-
Secretary to Govt. of Punjab,
Chandigarh
5. Commandant General
Home Guards
State of Punjab, Chandigarh

Respondents.

(By Mrs. Avnish Ahalawat, learned Counsel for respon-
dents 1 to 3 and Shri M.M. Sudan, Adv. for R-4 and 5)

The application coming on for orders this day, PUTTASWAMY, J. made the following:

ORDER

This is an application made by the applicant under Section 19 of the Administrative Tribunals Act, 1985 ('Act').

2. As early as on 4-4-1950, the applicant joined service in the Government of Punjab, where he continued to serve with two interruptions till 3-7-1962. On 4-7-1962, he joined service in the Delhi Administration and has retired from service on 30-11-1979 on attaining superannuation. On his retirement, the applicant claimed that the service rendered by him in the Government of Punjab with two interruptions which were necessitated for reasons beyond his control should be counted for computation of pension under the Central Civil Services Pension Rules, 1972 ('Rules') and his pension regulated on that basis. But, the Delhi Administration, taking the view that the service rendered by the applicant prior to 3-7-1962 cannot be taken into consideration, fixed his pension taking into consideration the service rendered in it from 4-7-1962 only.

3. On such fixation of pension, the applicant again reagitated the matter and moved the Delhi Administration

to condone the break in service and then recompute his pension under the Rules. On that claim of the applicant, the competent authority of the Delhi Administration made office order No.269 (Annexure-P3) condoning the break in service with a stipulation that the same shall not qualify for pension. Even thereafter, the Delhi Administration did not revise the earlier pension fixed to the applicant. Hence, he has approached this Tribunal on 24-7-1986 for appropriate reliefs.

4. Among others, the applicant has urged that when once the Delhi Administration had condoned the breaks in service, it was bound to treat the entire period as continuous service, reckone the service rendered in the Punjab Government for purposes of pension stipulating the proportions ^{due} payable by the two Governments.

5. Respondents 1 to 3 have filed a separate reply justifying their action. Respondents 4 and 5 have filed a separate reply, inter alia contending that this Tribunal had no jurisdiction to adjudicate any claim against the State of Punjab and that Office Order No.269 made without consulting or reference to Government of Punjab, was not binding on it.

6. Shri N.N. Aggarwal, learned Counsel for the applicant, contends that when once the competent Officer of the Delhi Administration had condoned the breaks in service and had treated the entire period from 4-4-1950 to 30-7-1962 as continuous service, it was bound to count that service for purposes of pension and revise the pension payable to his client on that basis.

7. Mrs. Avnish Ahlawat, learned Counsel for the Delhi Administration, appearing for respondents 1 learned Counsel to 3, Shri M.M. Sudan/ appearing for respondents 4 and 5 sought to support the actions of the authorities.

8. The claim made and reliefs sought are against the Delhi Administration and not against Punjab Government. The State of Punjab has been impleaded as a proper party only for effecting adjudication of the questions raised in the application. In this view, this Tribunal's jurisdiction and power to adjudicate the claim, cannot be doubted. We, therefore, to proceed to examine the merits.

9. When the applicant was working in the Punjab State, in one or other department, there were breaks in service viz., from 1-3-1953 to 12-9-1953 and

20-11-1950 to 24-5-1957. Before the Delhi Administration settled the pension to the applicant, it had not condoned these breaks in service. But, in Office Order No.269, the competent officer of the Delhi Administration had condoned those breaks in service.

10. The breaks in service are condoned to enable a civil servant to count the service rendered by him before such breaks and to treat the same as continuous service only. An order condoning breaks in service is not made in a vaccum. When once the breaks in service is condoned, as done by the competent officer of the Delhi Administration in his office order No.269(Annexure-P3), then the service rendered by the applicant prior to such breaks, cannot at all be ignored for purposes of his pension. As to which Government must pay the proportionate pension, if any, is a matter which has to be examined and decided by the authorities in due course. But, even before that also, the Delhi Administration was bound to treat the service as continuous service and recompute the pension and also make payment of the same to the applicant. We must therefore issue appropriate directions for the same.

11. The applicant cannot claim pay and allowances for the actual periods of breaks in services. Learned Counsel for the applicant also states the same.

12. In the light of our above discussion, we direct respondents 2 and 3 to count the period of service rendered by the applicant from 4-4-1950 to 3-7-1962 as qualifying for pension, re-compute pension due to him on that basis under the Rules and then make him available all such pension and terminal benefits as are found due to him, including all arrears thereto, with all such expedition as is possible in the circumstances of the case and in any event within three months from the date of receipt of this order.

13. Application is disposed of in the above terms. But, in the circumstances of the case, we direct the parties to bear their own costs.

✓ 13/1/82
(BIRBAL NATH)

MEMBER (AM)

Mr. B. R. Venkateswamy
(K.S. PUTTASWAMY)
VICE CHAIRMAN.

13/4/1982