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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

DA.NO.437/90

Date of Decision: 19.2.1992

Bikram Paul Mehta

Applicant

Shri H.K. Gupta

Counsel for the applicant

vs.

Union of India & Ors.

Respondents

Shri M.L. Verma,

Counsel for the respondents.

CORAM:

The Hon'ble Mr. P.K. Kartha, Vice Chairman(J)

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

1. Whether Reporters of local papers may be allowed to see the Judgement? *Y*

2. To be referred to the Reporter or not? *N*

JUDGEMENT

(of the Bench delivered by
Hon'ble Vice Chairman Shri P.K. Kartha)

The grievance of the applicant in this case is not counting the first spell of his service with the Government while computing/pensionary benefits.

2. The applicant joined the Directorate of Coordination, Police Wireless, Ministry of Home Affairs, New Delhi as Wireless Operator on 1st July, 1951. He was appointed as Assistant Central Intelligence Officer-II(T) in the Intelligence Bureau on 14.3.1960(AN) as a direct recruit after submitting technical resignation. Trouble started

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for him since he was sent on duty to Srinagar on 26.1.1964. According to him, he became a victim of sacroiliac artherites resulting in severe pain in the spinal region. On 18.8.1964, he was transferred to Silchar. As his wife was in the family way, he represented against the transfer which was rejected. He took some medical leave and later reported for duty at Silchar on 19.7.1965. He reported to Civil surgeon, Silchar and on his advice applied for leave on medical ground and returned to Delhi. He received two orders, both dated 26.11.65, one cancelling his transfer to Silchar and second replacing his services at the disposal of DCPW with instructions to report for duty to Mt. Abu on 30.11.65. He declined to comply with these orders as he had already joined at Silchar and was on medical leave. However, on 30.11.65, he requested for arrears of his salary and transfer T.A. etc. for proceeding to Mt. Abu. On the same day he received a wireless message that action would be taken against him under Defence of India Rules, 1962, if he did not comply with orders to join at Mount Abu by 30.11.1965. He has stated that in these circumstances, he was forced to submit his resignation on 3.12.65, which was accepted by the Administrative officer of the DCPW on the same day. On 17.2.66, he submitted an application for withdrawal of resignation which was rejected. His repeated representations, however, persuaded the authorities to offer appointment again as ACIO-II(T) and he reported for duty on 13.3.1967.

3. The main grievance of the applicant is that he has been treated as a fresh appointee in 1967 and the benefits of his past services are not being allowed for pay or pension. He claims that the service in DCPW from March 1951 to 14th March 1960 should be taken into account as his

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resignation from DCPW was technical one to join the Intelligence Bureau. Further his service in Intelligence Bureau from 14.3.1960 to 3.12.1965 should be counted as his resignation was not valid and he was reinstated later. Even if the break of one year and three months, when he was out of employment is excluded, he has rendered 38 years of service on his superannuation on 30.4.90. He has, therefore, requested for directions to respondents to pay him full pension taking into account the service from 1.7.51 to 30.4.90, condoning the break in service from 3.12.65 to 12.3.67 and fixing of his pension accordingly.

4. The respondents have stated in their counter affidavit that the applicant was given fresh appointment as ACIO(II) w.e.f. 13.3.67 by giving him age relaxation as a special case and with a specific warning that he may not earn full pension. Immediately after joining, he started representing and his request for counting his past service was rejected in 1972. He belatedly raised the issue again in 1990 at the verge of his retirement.

5. We have gone through the records of the case and heard the learned counsel of both parties. It was pursuant to his repeated representations and his request for reversion to his parent Department(DCPW), where he held his lien that his posting orders to Silchar were cancelled on 26.11.65 and his services were placed at the disposal of DCPW by order dated 26.11.65. He was directed to join at Mount Abu, but instead of doing so, he represented to the Director, DCPW, to allow him to join duty at DCPW Headquarters at Delhi or to accept his resignation from the permanent post of Wireless Operator. The Director, DCPW accepted his resignation. After considering

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his request for withdrawal of resignation and for his reinstatement, the Ministry of Home Affairs took a compassionate view and appointed the applicant afresh in DCPW subject to the conditions that he will not be allowed to represent that his past services should be taken into account and the break in service be condoned. In the facts and circumstances of the case we see no merit in the application and the same is dismissed. There will be no order as to costs.

B.N. Dhoudiyal
(B.N. DHOUDIYAL)
MEMBER (A)

OKED
19/2/92
(P.K. KARTHA)
VICE CHAIRMAN (J)

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