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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA-1385/91

New Delhi this the 25th day of July 1997.

Hon'ble Mr. K. Muthukumar, Member (A)
Hon'ble Dr. A. Vedavalli, Member (J)

M.C. Sharma,
S/o Shri O.M. Sharma,
R/o II/C-63, Vidut Vihar,
P.O. Shakti Nagar,
Mirzapur, U.P. ...Applicant

(By Advocate Shri Mahesh Srivastava)

-Versus-

Union of India through
General Manager,
Northern Railway,
Baroda House,
New Delhi. ...Respondent

(By Advocate Shri Rajeev Sharma)

O R D E R

Mr. K. Muthukumar, Member (A) :-

Applicant seeks a direction to the respondent for giving him pro-rata pension on account of his service with the respondent for the period from May, 1971 to September, 1985. Applicant was an Assistant Permanent Way Inspector with the respondent and in February, 1980 he was sent on deputation to the Indian Railway Construction Company. While on deputation, he sent an application to National Thermal Power Corporation (hereinafter referred to as 'NTPC') through his employer, Indian Railway Construction Company for a post of Senior Engineer. His application was stated to have been forwarded to respondent No.1, who in turn had forwarded it to the NTPC. The dispute is whether the Railways have received the application from Indian Railway Construction Company for being forwarded to the NTPC. However, on his being selected in the NTPC he joined the said

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organisation in September, 1985. His resignation from the Railways was accepted by the respondent by letter dated 5.9.85 (Annexure P-6 to MA-675/96). The applicant is still serving in the NTPC and in this application he has prayed that for the services rendered by him under the Railways he should be allowed pro-rata pensionary benefits.

2. The respondents maintain that the applicant was not granted any permission by the respondent to join the NTPC, nor was his resignation accepted as a technical resignation with a view to enable him to join the NTPC. On his resignation from the service of the respondent, the applicant had been paid his Provident Fund, Leave Encashment and Life Insurance dues as also his terminal Gratuity, as provided under the rules.

3. Learned counsel for the applicant urged that the application of the applicant for a job in the NTPC was forwarded by the letter dated 2.2.85 (Anneuxre P-5 to the MA-992/97. The very fact that he has subsequently joined the NTPC was quite enough to demonstrate that the application has been duly forwarded and that the applicant had joined NTPC with prior permission. Having perused the records we are unable to accept this contention. The essential criterion for grant of pro-rata pension benefit is that there should be a commitment on the part of the respondents for agreeing to permanent absorption of the applicant in public interest. Rule-53 of the Indian Railway Service Pension Rules clearly provides that a Railway servant who has been permitted to be absorbed in a service or post under



a Corporation or Company wholly or substantially owned or controlled by the Government be deemed to have been retired from service for purposes of becoming eligible to receive retirement benefits. There is nothing on record to show that the applicant has been duly permitted to be absorbed in the NTPC. Learned counsel relies on a judgement in Praduman Kumar Jain vs. U.O.I. (1995 (1) SLJ 221) of the Apex Court. We have seen this case. There was no dispute in this case about the fact that applicant resigned from Government service with a view to get employment in public sector undertaking. There is no such undisputed fact in this case. On the other hand, the respondents deny that the applicant had been formally permitted to get absorbed in the NTPC. Therefore, this decision is not pari materia with the facts of the present case.

4. Since in the present case the essential requirements of grant of pro-rata pension benefit on permanent absorption are not satisfied, we are of the considered view that the applicant has not made out his case. Therefore, this application is rejected.
No costs.

(Dr. A. Vedavalli)
Member (J)

(K. Muthukumar)
Member (A)

'Sanju'