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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH
NEW DELHI

D.A. No. 816/91

New Delhi, dated the 5th May, 1995

HON'BLE MR. S.R. ADIGE, MEMBER (A)

Shri Reeshan Lal Luthra,
R/o Flat No. 200 (R.P.S.), Sheikh Sarai (Phase I),
New Delhi.

(Applicant appeared in person) APPLICANT

VERSUS

1. The Secretary to the Govt. of India,
Ministry of Agriculture,
Dept. of Agriculture & Cooperation,
Krishi Bhawan, New Delhi-110001.
2. The General Manager, Delhi Milk Scheme,
West Patel Nagar, New Delhi-110008.
3. The Deputy General Manager (Admn.),
Delhi Milk Scheme, West Patel Nagar,
New Delhi-110008.

(None appeared for the respondents) RESPONDENTS

JUDGEMENT

BY HON'BLE MR. S.R. ADIGE, MEMBER (A)

The applicant seeks counting of his apprenticeship period in the Delhi Milk Scheme from 2.3.63 to 1.3.65 to be counted towards his qualifying service for purposes of retiral benefits.

2. The applicant's case is that he was appointed as an apprentice in DMS w.e.f. 2.3.63 vide order dated 14.6.63 (Annexure A) by the competent authority at a fixed salary of Rs.200/- p.m. This order stated that orders regarding other terms and conditions of appointment would issue separately. These subsequent orders issued on 9.10.63 (Annexure B), which inter alia stated that full service rendered by an Apprentice Supervisor/ Assistant Manager would qualify for pension and leave. After successfully completing his 2 years apprenticeship he was sought on to the regular establishment w.e.f. 2.3.65 vide orders dated 20.7.65 (Annexure C). When by letter dated 12.6.85 (Annexure D) he sought a reply from the respondents as to the

date on which he would be treated as having completed 2 years qualifying service, he was informed by letter dated 2.8.86 (Annexure E), that he was appointed to the post of Supervisor/Asstt. Manager, DMG on regular basis w.e.f. 2.3.85, he would have completed ²⁰ 1/ years qualifying service in DMG on 19.3.85 (after deducting 18 days E.O.L.). The applicant contends that non-counting of his apprenticeship period of 2 years w.e.f. 2.3.63 to 1.3.65 violates the terms and conditions of order dated 9.10.63, which stated that full service rendered by the Apprenticeship Supervisor would qualify for pension etc. He has contended that the respondents stand that counting of apprenticeship period is not admissible under the CES(Pension) Rules as these Rules came into effect in 1972 whereas he worked as an Apprenticeship in 1963-65 in terms of the assurance and commitment contained in the order dt. 9.10.63. He further states that even under the FRs the competent authority is empowered to treat the 2 years apprenticeship period as duty. He contends that had not the competent authority give this assurance, of treating the apprenticeship period as qualifying service, he would not have opted to accept the apprenticeship at that time. He has also contended that no regulation has been cited by the respondents to deny him the benefit.

3. The respondents have challenged the O.A. in their reply and have pointed out firstly that the application is barred by limitation, as the applicant's representations were rejected on 22.2.86 and again on 6.7.88, while this O.A. was filed on 21.3.91. They state that during apprenticeship the applicant is entitled only to a stipend and not even to pay as in the case of training and as long as he is an apprentice, even if he is on training, such period does not qualify. The concede that

the contents of order dated 9.10.63 are not happily worded, but contend that this does not entitle the applicant to the relief claimed.

4. In the rejoinder, the applicant has broadly reiterated the contents of the O.A. He has also denied the application is hit by limitation and states that a petition for condonation of delay has been filed.

5. The applicant appeared and was heard in person. None appeared for the respondents.

6. At the outset it is noted that the respondents stand that the O.A. is hit by limitation u/s 21 Limitation Act is correct. The applicant's first representation was rejected on 22.2.86 and it is well settled that repeated representations do not extend the period of limitation. Yet this O.A. was filed as late as 21.3.91. No reason for delay has been given and no petition for condonation of delay is on record. Apart from being hit by limitation, even on merits the applicant has no case. It is for him to establish prima facie under which specific rule he is entitled to count the apprenticeship period towards qualifying service. No specific rule or instruction has been cited by him. He cannot take advantage of an unhappily worded portion of an order to base a claim which is not supported by rule or instruction, and further contend that had the competent authority not given the assurance of treating the apprenticeship period towards qualifying service he would not have opted to accept the post of apprentice at that time.

7. Viewed at from any angle, this matter warrants no interference. The O.A. fails and is dismissed. No costs.

Arulogji
(S.R. ADIGE)
Member (A)