

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No. 1934/1992

New Delhi this the 28th day of July, 1997

HON'BLE MRS. LAKAHMI SWAMINATHAN, MEMBER (J)
HON'BLE MR. K. MUTHUKUMAR, MEMBER (A)

Shri R.S. Chauhan
S/o Shri Yadunath Singh Chauhan.
R/o 234-A, Pocket 1, Mayur Vihar,
Phase-I,
Delhi-110 091.

...Applicant

None for the applicant.

Versus

1. Union of India,
through the Secretary,
Ministry of Home Affairs,
North Block,
New Delhi-110 011.
2. Delhi Administration,
through Lt. Governor,
Raj Niwas Marg,
Delhi-110 054.
3. The Director,
Director of Education
(Delhi Administration),
Old Secretariat,
Dehi-110054. ...Respondents

By Advocate Shri S.M. Arif for respondent 1.

None for respondents 2 and 3.

ORDER (ORAL)

Hon'ble Mrs. Lakshmi Swaminathan, Member (J)

None for the applicant even on the second call. This case has been on Board since 25.7.97. Notices had been issued to Respondents 1, 2 and 3 but none of the Respondents had filed a reply. In the Tribunal's order dated 27.1.1993, it has been stated that the departmental representative on behalf of the Respondents submitted that no reply will be filed unless the matter which is pending

for consideration is decided. The Tribunal had noted that since no time had been sought within which the reply would be filed, there was no alternative except to direct that the pleadings in the case be taken as complete.

2. As this is an old case of 1992, we have perused the record and heard Shri S.M. Arif, learned counsel for Respondent 1.

3. The applicant is aggrieved by the inaction of the Respondents on his representation dated 3.2.1992 regarding counting of military service towards civil employment. The applicant states that he joined Indian Army on 6.6.1963 in Army Education Corps and was discharged from Army on 17.11.1972. He joined the service of the Respondents, presumably Respondents 2 and 3 as TGT (Sanskrit) on 5.12.1973 as an Ex-serviceman against the quota reserved for that category. He has submitted that his age was also relaxed as an Ex-serviceman as per the rules on his joining the civil service. He states that he had to opt for counting his military service within a period of 3 months on his confirmation which, according to him, was done by the order dated 1.8.1989. He, however, submits that the Respondents failed to ask him to exercise the option for counting his military service. He states that when he came to know on 30.1.1992, he filed a representation dated 3.2.1992 requesting the Respondents to count his military service in the subsequent Civil service (Annexure A-1), which was returned without consideration.

B.

4. In the representation made by the applicant in paragraph 3, he has referred to certain letters issued by Respondents 2 and 3; in paragraph 4 to the provisions of Rules 18 and 19 of the CCS (Pension) Rules, which were amended with effect from 25.2.1976; and in paragraph 5 that he came to be aware of these provisions only on 30.1.1992. In the representation he has, therefore, requested that his Army service should be counted towards civil service and break in service may be condoned. He has also stated that he is enclosing a copy of the discharge certificate from the Army and also that he is not receiving any pension from Army service.

5. The Respondents instead of examining the representation and giving him a reply, as mentioned above, returned the representation in original asking him to add the copies of all the relevant orders, instructions and rules mentioned in the representation dated 3.2.1992. This action of the Respondents does not have any basis and is ²³ unjustified as it was for them to have dealt with the matter in terms of the extant rules and regulations. Further, it is seen from Rule 18 (2)(a) of the CCS (Pension) Rules as modified by the Notification dated 24.2.76, that the authority issuing the order of substantive appointment to a service or post as is referred to in sub-rule (i) shall, along with such order require in writing, the Government servant to exercise the option under that sub-rule within three months from the date of issue of that order. We are not aware whether the respondents had intimated the applicant in writing, as required under this rule, after his confirmation by Respondent 3 in the post of teacher by order dated

Yes

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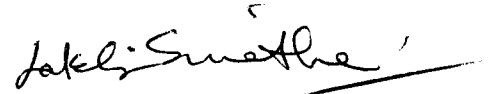
1.8.1989, which they had an obligation to do. Therefore, in the facts and circumstances of the case, the delay, if any, in exercising the option shall be condoned.

6. In the above facts and circumstances of the case, we are of the considered view that the action, rather the inaction of the Respondents 2 and 3 in returning the representation given by the applicant on 3.2.1992 without any examination of the issues in accordance with the rules is not at all justified. We, therefore, direct Respondents 2 and 3 to treat this Original Application, as a representation, in addition to the representation dated 3.2.1992, and dispose of the same by a reasoned and speaking order in accordance with law, the provisions of CCS (Pension) Rules and keeping in view the above observations. This shall be done within a period of three months from the date of receipt of a copy of this order with intimation to the applicant.

7. O.A. allowed as above. No order as to costs.



(K. MUTHUKUMAR)
MEMBER (A)



(SMT. LAKSHMI SWAMINATHAN)
MEMBER (J)

Rakesh