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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

O. A. No. 2001/92

New Delhi, this the 11th day of February, 1994.

Hon'ble Mr Justice S.K.Dhaon, Vice Chairman
Hon'ble Mr B.N.Dhoundiyal, Member(A).

Shri M.P. Singhal,
son of late Amar Singh Singhal
presently posted as
Administrative Officer Gr.I
in the Indian Institute of Petroleum
P.O.IIP, Mohkampur, Dehra Dun(UP) ... Applicant.
(through Mr K.N.Bahuguna, counsel).

vs.

1. Director General
Council of Scientific & Industrial Research,
'Anusandhan Bhawan,
Rafi Marg,
New Delhi.-110 001.
2. Director,
Central Building Research Institute
Roorkee(UP).
3. Director,
Indian Institute of Petroleum
P.O.IIP, Mohkampur
Dehra Dun(UP) Respondents.
(through Mr V.K.Rao, Advocate).

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

This O.A. has been filed by Shri M.P. Singhal, who retired as Administrative Officer, Grade I from the Indian Institute of Petroleum, Dehradun. Before joining the services of respondent No.1, the applicant had worked in the Government of Utter Pradesh from 15th July, 1953 to 15th February, 1970. He joined C. S.I.R. as a Stenographer thereafter and was subsequently absorbed with effect from 16th February, 1975. His Provident Fund was transferred to the C.S.I.R. and he was paid gratuity and pensionary benefits by the Government of Utter Pradesh amounting to Rs.40,773.65p. On 21.12.1988, the Director, C.B.R.I., Roorkee, conveyed

the approval for counting the services of the applicant as rendered by him with the U.P. Government in terms of para 5(1)(b) of the Government of India DPAR O.M.No.28/10/84 dated 29.8.1984(Annexure A-2). Later, a reference was made to the C.B.R.I. Headquarters that the services of the applicant under the U.P. Government have to be counted from 15.7.1953 to 15.2.1975 (instead of 15.7.1973 to 15.2.1970) that is the date, on which he was permanently absorbed. The applicant deposited all the pensionary benefits received by him alongwith 6% interest with the respondents. However, on 3.4.1992, a communication was received from respondent No.1 asking for a confirmation that the Government of U.P. had ^{for to} discharged ^{BW} lumpsum pro-rata pension to G.S.I.R. for the period after 1.6.1988, i.e., the date upto which the applicant was drawing pension for his service with the Government of U.P. The applicant has prayed for directions to the respondents to count his service from 15.7.1953 to 15.2.1975 for all purposes in view of the fact that he had expressed his desire to retire voluntarily w.e.f.1.9.1992.

2. In the counter filed by the respondents, it has been argued that the liability for discharging the commuted value of the pension is that of the Government of U.P., which had not been made a party. Unless the Government of U.P. discharges its pensionary liability w.e.f.1.6.1988, on the basis of computation table as on 31.5.1998, the respondents cannot take further action. The request of the applicant for voluntary retirement has already been rejected as he has not completed 20 years of service after his absorption and was more than 35 years of age while joining the service.

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3. We have heard the learned counsel for the parties and perused the record. Clause 5(1)(b) of Government Circular dated 29.8.1984 provides-

"to have the past service counted as qualifying service for pension under the new organisation in which case the pro rata retirement or other terminal benefits, if already received by them, will have to be deposited alongwith interest thereon from the date of receipt of those benefits till the date of deposit with the autonomous body or the benefits till the date of deposit with the autonomous body or the Central Government as the case may be. The right to count previous service as qualifying service shall not revive until the whole amount has been refunded. In other cases where pro-rata retirement benefits have already been sanctioned but have not yet become payable, the concerned authorities shall cancel the sanction as soon as the individual concerned opts for counting of his previous service for pension and inform the individual in writing about accepting his option and cancellation of the sanction. The option shall be exercised within a period of one year from the date of issue of these orders. If no option is exercised by such employees within the prescribed time limit they will be deemed to have opted for retention of the benefits already received by them. The option once exercised shall be final.

It has been decided in consultation with the Ministry of Finance that the rate of interest in such cases would be simple interest of 6% per annum.

Further the entire recovery may be made in monthly instalments not exceeding thirty-six in number, the first instalment beginning from the month following the month in which person concerned exercised option, provided that the entire recovery in instalments does not go beyond the actual date of retirement. The right to count the previous service as

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qualifying service shall not revive until the whole amount has been refunded.

The entire amount including interest may be credited to the normal head to which contributions are credited. "

It would be seen that these instructions envisage refund of one ~~xxx~~ time terminal benefit and do not cover a situation where monthly pension is drawn by an employee. The applicant does not contest that the respondents should not receive the commuted value of the pension for the period after 1.6.1988.

His contention is that he has already deposited a total amount of Rs.52,606.65, including interest @ 6% per annum. This was done on the basis of the calculations made by the respondents. The post-retirement pensionary liability of the U.P. Government comes only to Rs.18,663 and against which Rs.52,606.65 have already been deposited by the applicant.

4. In the facts and circumstances of the case, we hold that the applicant, who has already been ^{3w} retired from service, should not be made to suffer and any pensionary liability after 1988 **should** be sorted out between the respondents and the Government of U.P. It is already admitted that the applicant is not drawing any pension from the Government of U.P. w.e.f.1.6.1988. The application is, therefore, disposed of with the following directions:

- a) the respondents shall reconcile the amounts due to them on account of refund of pension and other benefits received by the applicant alongwith interest @ 6% per annum as also the commuted value of his pension from the Government of U.P. after 1.6.1988. In case it is found that some more amounts have to be re-imbursed from the Government of U.P.,

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the respondents shall take up this matter with that Government on their own.

b) The applicant shall immediately be given his full pension due to him without awaiting for re-conciliation of accounts with the Government of U.P. The applicant, shall, however, give an undertaking that in case it is found that he has still to refund some amount, he shall agree for this amount to be deducted in instalments from his pension.

c) the amount of full pension shall be paid to the applicant within a period of two months after the date of communication of this order by the applicant to the respondents.

5. There will be no order as to costs.

B.N. Dhoundiyal
(B.N.Dhoundiyal)
Member(A)

S.K. Dhaon
(S.K.Dhaon)
Vice Chairman

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