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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

D.A. No.2414/1992

New Delhi, This the 07th Day of June 1994

Hon'ble Shri P.T. Thiruvengadam, Member(A)

Shri V. R. Chadha S/o Late Shri S R Chadha
aged 60 years, Formerly in S.A.S.Cadre
in the office of Accountant General
Gwalior - Madhya Pradesh

Resident of:

No.254, S.F.S. Sheikh Sarai
Phase I, New Delhi 110 017.

..Applicant

By Shri S S Tewari, Advocate

Versus

Union of India
through

1. Comptroller and Auditor General of India,
Bahadur Shah Zafar Marg,
New Delhi - 110002.
2. The Accountant General(A&E)I,
Madhya Pradesh
Gwalior.

..Respondents

By Shri N S Mehta, Advocate

O R D E R (Oral)

Hon'ble Shri P.T. Thiruvengadam, Member(A)

1. The applicant was appointed in the office of Accountant General as UDC with effect from 21.11.55 and was declared permanent in the grade w.e.f.1.3.60. Subsequently he was appointed as SAS Accountant w.e.f. 4.7.61.
2. The applicant applied for the post of Accounts Executive in Bokaro Steel Plant and his application was forwarded through proper channel with the condition in case he was selected he was to resign finally

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within a period of 2 years beyond which his lien would not be retained in the parent office.

3. On selection to the above post the applicant was relieved on 19.10.67. The applicant tendered his resignation with effect from the date of relieving from the duty and the resignation was accepted with effect from 20.10.67.

4. Thereafter the applicant had been pursuing his case for grant of pro rata retirement benefits for the period of service rendered by him in the office of Respondent No.2 i.e. for the period from 21.11.55 to 19.10.67. Despite a number of representations such pro-rata terminal reliefs were not granted to him and his representation dated 8.10.91 quoting CAT's judgement in OA No.527/87 dated 14.4.88 was also rejected on 20.4.92 vide Annexure A-I to the OA. The stand taken in that letter of 20.4.92 is that the relevant CAT judgement was being applied only to the particular applicants in that case and would not be generalised, pending issue of suitable amendment/orders by the Govt. The stand of the respondents is that the applicant having resigned from 20.10.67 cannot get the benefit of the subsequent orders affording pro rata retirement benefits to permanent Govt servants getting absorbed in a public sector undertaking.

5. This OA has been filed for setting aside the impugned

order

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letter of 20.4.92(Annexure A I) and for a direction to the respondents for payment of pro-rata pension and retirement gratuity to the applicant based on his service of 12 years from Nov 1955 to Oct 1967.

6. The learned counsel for the applicant referred to a number of Court Orders:

(a) Order passed by Hyderabad Bench of CAT in DA 527/87 decided on 14.4.88(Annexure R I to the rejoinder). As per this order Government cannot discriminate in granting benefits by fixing an arbitrary date to demarcate eligibility.

(b) In this connection Hon'ble Supreme court passed orders reported in JT 1993(1) SC 609 which reads as under:-

" Rule 37, thus provides that a government servant who has been permitted to be asorbed in service in a Central Govt public undertaking in public interest, be deemed to have retired from service from the date of such absorption and shall be eligible to receive retirement benefits in accordance with the orders of the Government applicable to him. It is not disputed that the appellant was permitted to be asorbed in the Central Government Public undertaking in public interest. The appellant as such shall be deemed to have retired from government service from the date of his absorption and is eligible to receive the retirement benefits. It is no doubt correct that the retirement benefits envisaged under rule 37 are to be determined in accordance with the government orders but the plain language of the Rule does not permit any classification while

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granting the retirement benefits. When the Rule specifically provides that all the persons who fulfil the pre-conditions prescribed therein shall be deemed to have retired from government service from the date of absorption and shall be eligible to receive retirement benefits then the government while granting benefits cannot deny the same to some of them on the basis of arbitrary classification. All those persons who fulfil the conditions under Rule 37 are a class by themselves and no discrimination can be permitted within the said class. The Government action in restricting the benefits under the revised memorandum dated June 16, 1967 only to those who are absorbed after that date goes contrary to the Rule and cannot be sustained."

(c) Order passed by this Bench in O.A.1119/93 decided on 18-4-94. This O.A. deals with a similar set of circumstances and an order has been passed on 18-4-94 relating to the applicant therein who got absorbed in public sector undertaking in 1965 after putting about 20 years of service in Government. The order allowed the payment of pro-rata retirement benefits and extended the benefits conveyed in the O.M. which was issued subsequent to the date of absorption.

7. After taking into account the various citations particularly the orders of the Hon'ble Supreme Court there is no doubt that the relief claimed cannot be denied. It is noted that the applicant has reached the age of normal superannuation as applicable to a government servant. Hence pro-rata pension, gratuity etc admissible in respect of the relevant office memorandae should get extended to him. Since the applicant has been representing for such benefits right from 1982 as is evident from para 3 of the reply

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of the respondents it is fit and proper to direct the respondents to grant terminal benefits as per the relevant office memorandae with effect from the date he would have reached normal superannuation had he continued in government service. This would be in keeping with the benefits extended by Supreme Court.

8. The respondents are allowed three months from the date of receipt of this letter for making payments to the applicant. This O.A. is disposed of accordingly. No costs.

D. J. Thiruvengadam
7/6/94
(P.T. THIRUVENGADAM)
Member (A).