

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 12/1993
T.A. No.

199

DATE OF DECISION 30.8.93

<u>Dr.K.Narainaswamy</u>	Petitioner
<u>Shri S.S.Tiwari</u>	Advocate for the Petitioner(s)
Versus	
<u>Union of India & two others</u>	Respondent
<u>Shri N.S.Mehta</u>	Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. J.P.Sharma, Member (J)

The Hon'ble Mr. N.K.Verma, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

JUDGEMENT

(Hon'ble Shri J.P.Sharma, Member (J))

The applicant was selected for posting as a Pool Officer in CSIR and was posted to Regional Research Laboratory, Hyderabad, now IICT Hyderabad which is one of the constituents of CSIR. The applicant worked there as a Pool Officer from June 1, 1965 to March 5, 1969. His resignation was accepted from the Scientists Pool w.e.f. the date i.e. March 5, 1969.

The applicant joined as Assistant Director (Chemistry) CFSL, CBI, New Delhi w.e.f. June 10, 1969 and he worked there till January 1984. Thereafter from 28 January 1984 the applicant joined as Principal Scientific Officer in the Department of Science & Technology wherefrom he was transferred in 1986 to the Department of Bio-Technology. The applicant retired on superannuation on 31-12-1992. The grievance of the applicant is that his service of Pool Officer rendered in CSIR (IICT Hyderabad) for the period from July 1, 1965 to March 5, 1969 had not been counted for pensionary benefits

and his representation dated 30-3-92 was rejected by the impugned order dated December 8, 1992 (An.A). The aforesaid letter was issued by the Ministry of Science & Technology, Department of Bio-Technology informing the applicant that the CSIR has clarified that the services rendered as Pool Officer in CSIR shall not be counted for pensionary benefits.

Aggrieved by the aforesaid order, the applicant filed the present application on December 31, 1992 and prayed for direction to the respondents to count the service rendered by the applicant as Pool Officer from July 1, 1965 to June 10, 1969 for the purpose of giving retirement benefits.

By the order dated 4-1-93 a notice was issued to the respondents who contested the application and denied the grant of relief claimed by the applicant. It is stated in the reply that the Ministry of Home Affairs formulated the scheme of Pool for temporary placement of well qualified Indian Scientists/Technologists returning from abroad until they could be absorbed on suitable posts on permanent basis. The CSIR has been asked to take all steps in this regard for implementation of the scheme. The Ministry of Home Affairs in their letter dated 31-7/3-8-92 specifically ruled out that it is not permissible to extend the pensionary benefits to the Pool Officers absorbed in CSIR/other departments. A copy of the said letter of Ministry of Home Affairs addressed to CSIR is enclosed as An.A to the counter. The other objection taken by the respondent in their reply is that there is a gap of service of 3 months and 4 days during the service rendered by the applicant as Pool Officer and the commencement of his regular service under the Govt. of India.

We have heard the learned counsels of the parties at length and perused the record. The case of the applicant mainly rests on the Scientists Pool Scheme issued by the Govt. of India, Ministry of Home Affairs. This pool placement is not a regular appointment but is in the nature of temporary facility to enable a pool officer to do research/teaching in India while looking for regular position. Pool

appointments are for a period of 3 years only. There is no provision for extension beyond 3 years. The selections to the Pool are made by the UPSC and the Sub Recruitment Board (SRB) only for a period on the basis of academic qualifications, professional experience, research publications and interviews. Normally the selection/posts take upto four months from the date of receipt of application to the communication of results. The controlling authority of the Pool Scientists is the CSIR who is to frame regulations for regulating the conditions of service of such officers. Until such regulations were framed, officers will be governed by the existing regulations which apply to temporary class I officers of the CSIR. None of the parties as filed any such regulations framed by CSIR of the relevant time. The judgement in the case of Dr. M.G. Anantapadmanabha Sethi Vs. Director, National Institute of Oceanography Donapaula Goa and another reported in (1990) 14 Administrative Tribunals cases page 314 CAT Bangalore Bench has decided the case that the applicant of that case who has worked as Pool Officer from January 1964 till October 10, 1969 before his absorption in the government service as Scientist Grade 'C' was entitled to the benefit of counting of the service of the period he spent as Pool Officer in the Scientists Pool as qualifying service for pensionary benefits. The case of the applicant is also similar. He has worked as Pool Officer in IICT Hyderabad earlier known as Regional Research Laboratory Hyderabad from July 1, 1965 till March 5, 1969 and he therefore has a claim for the counting of this period towards qualifying service for the pensionary benefits. The respondents in their counter have only taken the plea that the judgement does not apply to the applicant in view of the fact that there was interruption in the service of more than 3 months 10 days before he joined the government service as Assistant Director, CSF Cell, CBI, New Delhi with effect from 10 June, 1969. In fact, the applicant's counsel has argued that the applicant was duly selected for

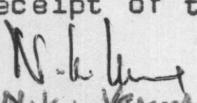
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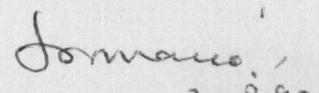
this post in February 1969 but due to formalities of character verification and others which are procedural formalities, the applicant could take up the new assignment only on June 10, 1969.

Rule 13 of the CCS (Pension) Rules, 1952 provide commencement of the qualifying service and it lays down that qualifying service of a government servant shall commence from the date he takes charge of the post to which he is first appointed either substantially or in officiating or temporary capacity; provided that officiating or temporary service is followed without interruption by substantive appointment in the same or another service of the post. Thus where there is a deliberate interruption in the service in getting substantive appointment as government servant only in those cases, there can be an interruption visualised under rule 13. The averment in para 4.9 made by the applicant that he was selected in February 1969 has not been controverted in the counter and it is only stated that this is a matter of record and needs no reply.

In view of the above, it is quite evident that the case of the applicant is squarely covered by the decision of Bangalore Bench of the Central Administrative Tribunal in the case of Dr. MG Anantapadmanabha Sethi supra.

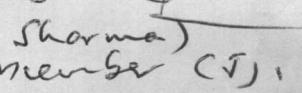
The application is, therefore, allowed but the period actually spent by the applicant as Pool Officer from July 1, 1965 to March 5, 1969 shall only be counted as a qualifying period for the purpose of grant of pensionary benefits. The impugned order is, therefore, quashed and the application allowed with the above directions. The respondents may comply with the above directions within three months from the date of receipt of this order.


N.K. Verma
(~~B.K.S.N.C.H.~~)
Member (A)


J.P. Sharma
30.8.93

(J.P. SHARMA)
Member (J)

Pronounced by me,


(J.P. Sharma)
Member (J)