

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 19TH DAY OF MAY, 2003.

Original Application No. 449 of 1996

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI, V.C.

HON.MAJ.GEN.K.K.SRIVASTAVA, MEMBER(A)

Ramesh Chandra, 71/MT Auto Fitter
Small Arms Factory, Kalpi
Road, Kanpur.

.. Applicant

(By Adv: Shri B.B.Sirohi)

Versus

1. Union of India through
The General Manager, Small Arms
Factory, Kanpur.
2. General Manager, Small
Arms Factory, Kanpur.

.. Respondents

(By Adv: Shri Ashok Mohiley)

O R D E R (Oral)

HON.MAJ.GEN.K.K.SRIVASTAVA, MEMBER(A)

In this OA filed u/s 19 of A.T.Act 1985 the applicant has prayed for quashing the order dated 1.12.1995(Annexure A-1) by which as per the applicant the order creates break in service for one day i.e for 14.6.1983. The applicant has also prayed for correct fixation of pay by counting his previous service rendered under U.P.State Road Transport Corporation(in short UPSRTC) w.e.f 22.1.1976 to 13.6.1983.

The facts giving rise to the controversy in short are that the applicant was appointed as Fitter grade 'C' in the respondent's establishment vide order dated 8.6.1983. Prior to his joining the respondent's

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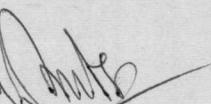
establishment the applicant worked with UPSRTC, Kanpur as Mechanic from 22.1.1976 to 13.6.1983. The applicant filed a representation before respondent no.2 on 27.10.1992 for counting his past service rendered with UPSRTC. The respondents did not take any action on the representation of the applicant and he filed OA No.433/93 which was decided by this Tribunal on 2.9.1993. ^{in Pursuant to the direction of Tribunal} ~~However~~, the respondents considered the representation of the applicant and the service rendered by the applicant in UPSRTC from 22.1.1976 to 13.6.1983 were ordered to be counted towards his service. However 14.6.1983 was treated as dies non because as per respondents the applicant was relieved from the previous organization on 13.6.1983 and he should have joined the respondent's establishment on 14.6.1983. The period of one day i.e. 14.6.1983 was shown as one day break. Aggrieved by this, the applicant approached the respondents and vide impugned order dated 1.12.1995 the respondents have condoned the one day break of 14.6.1983 under Rule 28 of CCS(Pension) Rules 1972 ^{by} ~~and~~ holding that period of 1 day i.e. 14.6.1983 will not count for pensionable service. In our opinion, prayer no.1 of the applicant that break of one day i.e. 14.6.1983 should also be counted towards his continuous service is misconceived in view of the fact that this period has already been condoned and the only effect of the impugned order dated 1.12.1995 would be that one day shall not be counted for the purpose of salary as well as pension.

The second grievance of the applicant is that though the period during which he served in the previous organization has been counted towards his service but he has not been given the benefit of pay fixation counting the past services. Once the respondents have granted the continuity in service counting the past service of the applicant they ought to have fixed the pay of the applicant

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giving the dues weightage for the past service
which the applicant is entitled for. In our
opinion, the interest of justice shall be better served
if the case is remitted to the respondents to look into
the pay fixation of the applicant counting his past
services which he rendered with UPSRTC as per rules.

In the facts and circumstances, the OA is finally
disposed of with the direction to the respondent no.2
to pass appropriate order regarding the refixation of
the pay of the applicant counting his past service
within a period of three months. The arrears accruing
thereof shall be paid within a period of four months
from the date of communication of this order. No order
as to costs.



MEMBER (A)



VICE CHAIRMAN

Dated: 19.5.2003

Uv/