

CENTRAL ADMINISTRATIVE TRIBUNAL**CHANDIGARH BENCH**

O.A. No. 060/282/2018
MA No. 060/384/2018

(Order reserved on 19.03.2021)

Chandigarh, this the 20th day of April, 2021

HON'BLE MRS. AJANTA DAYALAN, MEMBER (A)

Piara Singh aged 63 years s/o Sh. Jarnail Singh, resident of
V&PO Sarangpur (Chandigarh)

.....Applicant

By Advocate: Sh. G.S. Sathi

Versus

1. Union Territory Chandigarh through its Secretary Engineering, UT Sectt. Building, Sector 9, Chandigarh.
2. Chief Engineer & Special Secretary, Engineering Deptt., Chandigarh Administration, UT Sectt. Building, Sector 9, Chandigarh.
3. Executive Engineer, Project Public Health Divn. No. 3 Engineering Department, Chandigarh Administration, Sector 11, Chandigarh.
4. Municipal Corporation, through its commissioner, M.C. Building, Sector 17, Chandigarh.

.....Respondents

By Advocate: Sh. K.K. Thakur for respondents No. 1 to 3
Sh. Aseem Rai for respondent No. 4



ORDER

AJANTA DAYALAN, Member (A):

1. The present OA has been filed by the applicant Piara Singh seeking grant of pension and other retiral benefits alongwith interest and cost.

2. The facts of the case are largely undisputed. The applicant was appointed as Petrol Man on regular basis and joined as such on 03.10.1974 in the Engineering Department of Union Territory, Chandigarh. He worked in this capacity till 1989. Thereafter, he remained continuously absent from duty. The applicant in the OA has pleaded that this was due to his family circumstances and personal reasons. As per entry in his service book annexed by the respondents as Annexure R-1, he was transferred to Municipal Corporation vide entry dated 31.05.1996. Prior to this, there is another entry of the same date in the same service book stating "Absent from duty since long". Another entry in the service book has verified his service upto 31.05.1989. The applicant has, however, pleaded that he worked till 16.10.1989. Barring this minor difference in dates upto which the applicant continued on duty, there is no other dispute regarding these basic facts.



3. The case of the applicant is that even from 1974 till 1989, applicant has rendered more than 15 years of service on regular basis and as such, he is entitled for pension and other retiral benefits with reference to the length of qualifying service rendered by him. As this has not been granted to him, he got a legal notice dated 19.05.2017 (Annexure A-2) served upon the respondents. But, there was no response from them and hence this OA.

4. Regarding delay in filing of OA, the applicant has stated that earlier, he was under the impression that minimum 20 years of regular service is required for admissibility of pension and retiral benefits. Only in the year 2015, he came to know that one Tripta Rani was granted family pension after death of her husband Jagdish Chand who was not even regularized and continued to work as Beldar in the Engineering Department. Jagdish Chand was later transferred to Municipal Corporation Chandigarh and died while serving there. The case of Tripta Rani was decided by this Tribunal in OA No. 060/217/2015 vide order dated 24.03.2015. The applicant has also pleaded that he also came to know that there are large number of OAs decided by this Tribunal where orders were later upheld by Punjab and Haryana High Court and Apex Court wherein it was held that daily wage/casual/work charge/ad hoc employees having ten years of service are entitled for



pension and other retiral benefits. As the applicant had rendered more than 15 years of service, he is entitled for this benefit and as he was not aware of these orders earlier, he has sought condonation of delay in approaching this Tribunal.

5. The applicant has also relied on some other judgements:

- (i) Punjab and Haryana High Court judgement in case of Mrs. Bimla Devi vs. State of Haryana, (1992) 101 PLR 161
- (ii) State of H.P. and Others vs. Rajesh Chander Sood etc. decided on 28.09.2016
- (iii) M.R. Gupta vs. Union of India and Ors., 1996(1) SCT 8 (Supreme Court)
- (iv) Union of India and Anr. Vs. Tarsem Singh decided on 13.08.2008 by the Apex Court
- (v) Ex Sep. Sri Chand vs. Union of India and Ors. decided on 09.01.2012 by Delhi High Court.
- (vi) P. Kunjuraman vs. Sr. Divisional Personnel Officer and Ors. in OA No. 28/2011 decided by Ernakulam Bench.

He has also relied upon a bunch of OAs main OA being OA No. 60-CH of 2002 in case of Badri and Ors. versus UT Chandigarh and Ors. by this Bench of the Tribunal decided on 28.07.2003.

6. In the light of all above submissions, the applicant has claimed pension and other retiral benefits.

7. The respondents have contested the claim of the applicant. They have basically stated that the application is



heavily barred by limitation as the applicant is claiming in 2018 benefits of service rendered by him from 1974 to 1989 – that too without any lawful explanation for such inordinate delay. They have also stated that the application is liable to be dismissed on this ground alone.

8. The respondents have, however, confirmed the facts as given above regarding service of the applicant in Chandigarh Administration and have also appended last page of his service book (Annexure R-1).

9. The respondents have further stated that the applicant did not retire from Chandigarh Administration and his services were transferred to Municipal Corporation long ago. Hence, the matter relates to Municipal Corporation which has not been impleaded as a respondent. As such, the Original Application suffers from misjoinder and non-joinder of the necessary parties and hence, is not maintainable.

10. Subsequent to this, the applicant filed an MA for impleadment of Municipal Corporation as respondent No. 4. In this MA, he has stated that he attained the age of superannuation on 31.05.2015. Also, he has stated that the service record of the applicant was not transferred to the Municipal Corporation and he was not relieved by UT Administration to join in Municipal Corporation. He has further stated that he never worked in Municipal



Corporation and his service record was, in fact, transferred to Municipal Corporation on 06.12.2018 only. However, in view of the statement of the UT Administration, MA for impleading Municipal Corporation as party is being moved by him. This MA is presently pending with us.

11. I have heard both the counsel of the applicant and the respondents on MA as well as in the main OA. I have also gone through the pleadings in the case and have given my thoughtful consideration to the matter.

12. I find that as regards transfer of the applicant to Municipal Corporation, there is nothing to show on record that he ever worked in the Municipal Corporation. As per service record, his service was verified only till 31.05.1989 and this service was with Engineering Department of UT Administration. Thereafter, the service record only states that he remained 'Absent from duty since long'. He was finally statedly transferred to Municipal Corporation vide entry dated 31.05.1996. But, it is clear from the records and other pleadings that this was basically a paper transfer. As stated by the applicant himself, he never worked in Municipal Corporation. There is nothing to prove in the pleadings to show that his service record was ever transferred to Municipal Corporation prior to 2018 – that is more than 20 years even after his stated transfer to Municipal Corporation. It is also more than almost three



years after his reaching the age of superannuation in 2015. Even, there is nothing to show that the name of the applicant was ever included in the list of personnel transferred to Municipal Corporation from UT Administration.

13. In view of all the above facts which are not contested by the respondents, I am clear that the transfer of the applicant to Municipal Corporation was only a transfer on paper with no consequential action ever taken by the Engineering Department of UT Administration. Thus, to now plead – as is being pleaded by the Engineering Department – that it is for the Municipal Corporation to decide regarding pensionary benefits is not proper and is only shirking their responsibility on another department.

14. In view of the specific facts of this case, I am of clear view that decision regarding pension is to be taken by the Engineering Department of UT Administration where the applicant worked for about 15 years. Consequently, Municipal Corporation is not a necessary or proper party in this OA.

15. The question of limitation definitely remains and is a very strong issue. The OA has been filed only in March 2018. Prior to this, even by his own pleadings, the applicant took up the matter with the respondents only in 2017 by issuing a legal notice. There is not a single



representation by the applicant to the respondent department where he worked for 15 years. Not a single letter has been placed on record by the applicant to show that he ever took up the matter with his department for settlement of his pension case. This is not a case of just one or two years, but right from 1989 till 2018 – that is for almost 30 years, the applicant maintained total silence and thereafter, he woke up to this cause.

16. Regarding delay, the Apex Court has been very clear and in catena of cases, they have stated that the law of limitation has to be applied very strictly. In case of UP Jal Nigam vs Jaswan Singh and another, 2007(1) SCT 225, “the litigant who is guilty of long delay and latches is deemed to have acquiesced or waived of his claim or right. Those who initiated action in time got the relief from the Court. Similar orders cannot be claimed ignoring the long unexplained delay by others also who were not vigilant enough. If such claims result into some financial burden upon the establishment, it will or may not be possible for the employer to meet with such additional liability after a long time”.

17. Besides, Section 21 of Central Administrative Tribunals Act is also very clear. No OA can be admitted in the Tribunal unless the same is filed within the time stipulated in the Act. In the instant case, the cause of



action, if at all, arose way back as the applicant, even by his own version, rendered service only upto 1989. Hence, there is a delay of almost 30 long years. During this long period, the applicant never joined duty. He did not even intimate the reasons for his long absence to the respondent department for almost 25 years. He did not do anything more than giving a legal notice in 2017 to the respondents. He never took up the matter regarding his service or his pensionary benefits with the respondent department during this whole period. He is, therefore, guilty of complete silence on the issue and cannot now claim his right for the same.

18. Moreover, I find that the application for condonation of delay is quite general and does not explain the delay at all – what to talk of giving sufficient cause for condonation of delay. The period worked out for delay is shown as only 1065 days. This is apparently from the year 2015 when the applicant statedly reached the age of superannuation. However, the fact is that the applicant never worked after 1989 and has himself not claimed to be on duty or in service thereafter. As such, the delay is not of just three years but of over 30 years.

19. I also find that one cannot in this case ignore the fact that the applicant had been totally absent from his duty right from 1989 onwards. If he were to be given benefit of



15 years of service rendered by him way back from 1974 to 1989, he is equally responsible for explaining the absence from duty for long years from 1989 till 2015. For this, there is no valid reason given by the applicant. The fact of his absence for over 25 years cannot now be ignored while taking a decision in this case.

20. In view of all above, I am clear that the applicant has no case whatsoever for claiming pension for his service rendered from 1974 to 1989 and he is not entitled for the relief sought by him in the OA.

21. In view of all above, the MA and the OA are dismissed.

22. There shall be no order as to costs.

(Ajanta Dayalan)
Member (A)

Place: Chandigarh
Dated: April 20th, 2021
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