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(Reserved)

CENTRAL ADMINISTRATIVE TRIBUNAL,

ALLAHABAD.

\* \* \* \* \*

Registration O.A.No. 353 of 1987.

Hari Deb Banerji . . . vs. . . The Union of India & another.

Hon'ble D.S.Misra, A.M.

Hon'ble G.S.Sharma, J.M.

(Delivered by Hon. D.S.Misra, A.M.)

In this application under Section 19 of the Administrative Tribunals Act, 1985 the applicant has challenged the order dated 18.5.1983 passed by the Comptroller and Auditor General of India( in short C.A.G. ) denying the benefits of pension, gratuity and leave salary encashment. The applicant has also filed an application praying for condonation of delay in filing the petition.

The applicant was working as Upper Division Clerk in the office of the Accountant General, Uttar Pradesh, Allahabad ( in short A.G.,U.P.) and went on deputation <sup>on 15-3-1962</sup> to the Anti Biotics Project, Rishikesh; re-designated as Indian Drugs and Pharmacheutical Private Ltd.( to be described as the I.D.P.L.) ; with effect from 16.3.1962 which is a Public Sector undertaking fully controlled by the Central Government. He was



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selected for the post of Junior Officer Personnel in the same office and offered appointment vide letter dated 1.2.1968. He accepted the offer and resigned his job in the office of the A.G., U.P. and joined the new post in the I.D.P.L. with effect from 3.2.1968. On 3.5.1968 the applicant sent a representation to the A.G.U.P. requesting payment of pension/gratuity as admissible under the orders of the Government of India, Ministry of Finance, Department of Expenditure O.M. No. F.24(12) EV/66 dated 16.6.1967; on 6.8.1971 he made another representation to the C.G.A. The reply to his representations was contained in the letter dated 27.11.1972 from Sri D.K.Jain, Senior Deputy Accountant General, U.P. in which it was stated that while forwarding his letter of resignation, his former employer had not stipulated that Shri Banerji's permanent ~~an~~ transfer to the Company would be in public interest nor had any claims for the retirement benefits envisaged by the Government of India, Ministry of Finance O.M. dated 16.6.1967 <sup>has</sup> ~~been~~ put <sup>be</sup> forward although by then the contents of the Government Orders mentioned above had already become common knowledge. It ~~his~~ further added that they were not even consulted about the proposed permanent absorption of Shri Banerji in the service of the Company but were straight away presented with his resignation which was accepted without any reference

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to C.A.G. Even while forwarding the representation of Shri Banerji the circumstances leading to Shri Banerji's permanent absorption in the Company's service were not indicated. Details were, therefore, called for to ascertain whether the test of public interest as amplified vide C.A.G.'s Circular dated 12.12.1968 was satisfied or not, but this letter elicited no response from I.D.P.L. and they could not proceed further in the matter. In a subsequent letter dated 13.8.1972 from the C.A.G. to the S.P. and W.O., Antibiotics Plant, Rishikesh, it was stated that the request of Shri Banerji could not be accepted in the light of the orders of the Government of India, Department of Personnel, O.M. dated 21.4.1972. The applicant appears to have made another representation to the C.A.G. on February 13, 1973 and April 1974. The applicant has filed copy of a letter dated 18.5.1983 from the office of A.G., U.P. addressed to the applicant, in which it is clearly stated that the question regarding admissibility of pensionary benefit in respect of service rendered by the applicant prior to his absorption in I.D.P.L. has been considered and it has been clarified by the C.A.G. in August 1982 that there was no proposal for granting retirement benefits to the Central Government servants who had been appointed in autonomous bodies on the basis of their own application in response to Press advertisement etc. and permanently absorbed therein during the period from 22.1.1966 to 20.4.1972. It is further added that since he was absorbed in I.D.P.L. with effect from 1.2.1968, and since he had applied for an assignment in I.D.P.L.

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in response to an open Press advertisement, he was not entitled to retirement benefits for the period of service rendered in the office of the A.G., U.P. prior to his absorption in I.D.P.L.

We have heard learned counsel for the applicant. The applicant has challenged the order dated 18.5.1983 of the C.A.G., and we have considered the reasons given <sup>Condonation of</sup> by the applicant for ~~the~~ delay in filing the petition: But we do not consider these reasons satisfactory. Even on merits, no <sup>prima</sup> facie case is made out, and we are of opinion that this is not a fit case for adjudication under the Administrative Tribunals Act, 1985.

The application is dismissed at the admission stage.

*Sharma*  
29.4.87  
Member (A)

*Sharma*  
29/4/87  
Member (J)

April 29, 1987.  
R.Pr.