

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Dated this the th 13 day of Nov. 2009.

CORAM:

HON'BLE MRS. MANJULIKA GAUTAM, MEMBER (A)

Original Application No. 423 of 2006
 (U/s 19 of the Administrative Tribunals Act 1985)

Girija Prasad Roy,
 S/o late Ram Naresh Roy,
 R/o 106 C Jawahar Ganj, Prayag,
 Allahabad. . . . Applicant

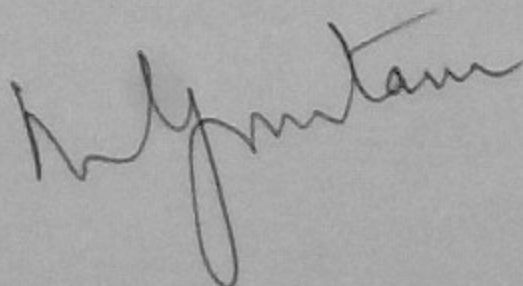
By Adv: Sri Pankaj Roy

V E R S U S

1. Union of India through Secretary,
 Government of India,
 Environment, Forestry and Wild Life
 Paryavaran Bhawan,
 C.G.O.Complex, Lodi Road,
 New Delhi and others.
2. Director,
 Botanical Survey of India,
 P-8, Brabourne Road,
 Calcutta, 700001.
3. Head of Office, Botanical Survey, Allahabad,
 10 Chathan Line, Prayag, Allahabad.
4. Senior Accounts Officer, P.A.O.,
 (351/251) 234/4 AJC Bose Road,
 Nizam Palace, 17th Floor Calcutta 700020.
5. Deputy Registrar (Admn.)
 Banaras Hindu University,
 Varanasi-221005.

. . . Respondents

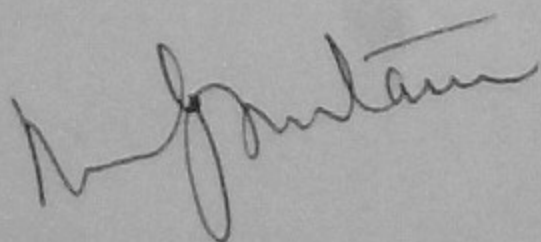
By Adv: S/Shri H.P.Singh/S.Chaturvedi



ORDER

HON'BLE MRS. MANJULIKA GAUTAM, MEMBER (A)

The applicant was appointed as Pool Officer at Banaras Hindu University (BHU for short) on 26.9.1968 and worked on the post till 20.2.1970. Thereon he was again appointed as Teacher in the BHU and worked on the post from 21.2.1970 to 30.9.1974. With prior permission of BHU, he applied for and was selected for the post of Systematic Botanist in Botanical Survey of India, Jodhpur, Rajasthan and he was joined the same post on 10.10.1974. Since 1986 the application has made several requests in writing that his service in BHU should be calculated for the pensionary benefits. Getting no response from the respondents, the applicant filed Civil Misc. Writ Petition No. 1037/2002, which was disposed of vide order dated 9.1.2002, giving a direction to the respondents to decide the applicant's representation dated 3.1.2001, within a period of six weeks. The applicant subsequently, filed Contempt Petition (Civil) No.2732/2002 before the Hon'ble High Court, and the Hon'ble High Court directed the respondent No.2 to comply with the High Court's order dated 9.1.2002. In response, the respondent No.2 decided the representation dated 3.1.2001 and communicated the same to the applicant vide letter dated 29.1.2004 (Annexure-1 to Comp.1). This letter clarifies the stand taken by the respondents. The applicant retired in the year 1997, and has continuously been making correspondences with the respondents, regarding counting



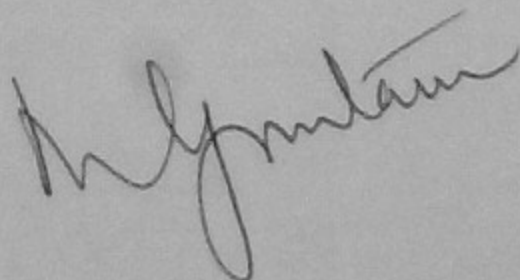
of his past services rendered in BHU, towards calculation of his pension.

2. By filing of this O.A. the applicant has sought the following main reliefs:

"i) To issue order or direction in nature of mandamus directing the respondents to give the retirement benefit to the petitioner by counting the past service rendered by the Petitioner in BHU.

ii) To issue an order or direction in the nature of mandamus commanding and directing the respondents to calculate the leave salary and pension contribution for the period of service rendered by petitioner in BHU."

3. In the counter affidavit filed by the respondents it has been stated that, the post of Pool Officer on which the applicant was appointed in BHU, was a tenure post with fixed emoluments sanctioned by the University Grants Commission (UGC for short). Subsequently, he worked on the post of Temporary Lecturer in the Department of Botany, Faculty of Science, BHU, and in that post he neither paid leave salary, nor contributed to pension. It has also been stated that the applicant did not obtained the permission of the University, prior to joining the service of Botanical Survey of India, and his application was also not moved through proper channel. The applicant was also been communicated vide letter dated 18/19.8.2000 by Deputy Registrar, BHU that, the service rendered by the applicant as Temporary Lecturer, cannot be counted for the purposes of pensionary benefits.(Annexure CA-II).



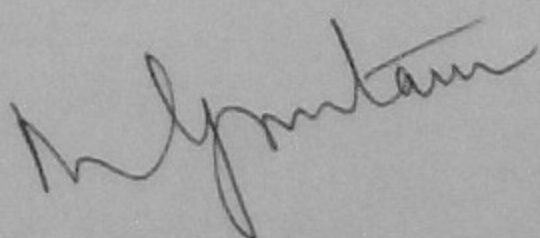
4. In the rejoinder filed by the applicant he has stated that, his service rendered in BHU are to be counted for pensionary benefits, as per *Rules 14(6) & 14(6)(2) of CCS (Pension) Rules*. He has also stated that, he had applied for Botanical Survey of India with permission from the BHU and had sent it through proper channel. A certificate to this effect is being filed as Annexure A-2 to the rejoinder.

Rule 14(6) & Rule 14(6)(2) reads as under:

(6) *Counting of Temporary service under the State/Central Governments.—1. The Government of India have been considering in consultation with the State Governments, the question of sharing on a reciprocal basis, the proportionate pensionary liability in respect of those temporary employees who had rendered temporary service under the Central Government/State Governments prior to securing posts under the various State Governments/Central Government on their own volition in response to advertisements or circulars, including those by the State/Union Public Service Commissions and who are eventually confirmed in their new posts. It has since been decided in consultation with the State Governments that proportionate pensionary liability in respect of temporary service rendered under the Central Government and State Governments to the extent such service would have qualified for grant of pension under the rules of the respective Government, will be shared by the Governments concerned, on a service share basis, so that the Government servants are allowed the benefit of counting their qualifying service both under the Central Government and the State Governments for grant of pension by the Government from where they eventually retire. The gratuity, if any, received by the Government employee for temporary service under the Central or State Governments will, however, have to be refunded by him to the Government concerned.*

2. The Government Servants claiming the benefit of combined service in terms of the above decision are likely to fall into one of the following categories:-

(1) Those who having been retrenched from the service of Central/State Governments secured on their own



employment under State/Central Governments either with or without interruption between the date of retrenchment and date of new appointment.

(2) Those who while holding temporary posts under Central/State Governments apply for posts under State/Central Governments through proper channel with proper permission of the administrative authority concerned;

(3) Those who while holding temporary posts under Central/State Governments apply for posts under State/Central Governments direct without the permission of the administrative authority concerned and resign their previous posts to join the new appointments under State/Central Governments.

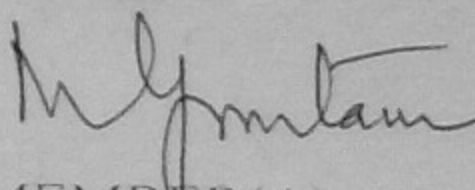
The benefit may be allowed to the Government servants in Categories (1) and (2) above. Where an employee in Category (2) is required for administrative reasons, for satisfying a technical requirement, to tender resignation from the temporary post held by him before joining the new appointment, a certificate to the effect that such resignation had been tendered for administrative reasons and/or to satisfy a technical requirement, to join, with proper permission, the new posts, may be issued by the authority accepting the resignation. A record of this certificate may also be made in his Service Book under proper attestation to enable him to get this benefit at the time of retirement. Government servants in Category (3) will obviously, not be entitled to count their previous service for pension."

5. According to the provisions of the above-quoted rules the applicant satisfies the necessary conditions of having applied through proper channel and after seeking due permission as is evident from perusal of Annexures 1, 2 & 3 of the rejoinder. The issues raised in the counter affidavit that on the temporary post in BHU, he was paid fixed emoluments from the grant sanctioned by UGC, that he did not pay leave salary nor contributed for pension, do not hold good in view of the rule position. Although the applicant retired in the year 1997, he has been litigating and

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agitating for revision of his pensionary benefits. As per Rule 14 (6)(2) of CCA (Pension) Rules which came into force on 31.3.1982.

6. This O.A. is accordingly allowed with direction to the respondents to refix his pension and other benefits taking into account the past service rendered by him in BHU as is provided under Rule 14(6)(2) of CCS(Pension) Rules and to give him all the consequential benefits arising therefrom within a period of two months from the date of receipt of a copy of this order. No costs.


MEMBER(A)

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