

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A.NO. 276 of 1991

~~**P.A.NO.**~~

DATE OF DECISION 22/06/2000

V. R. Shukla Petitioner

Mr. K.R. Shah Advocate for the Petitioner [s]
Versus

Union of India & Ors. Respondent

Mr. N. S. Shevde Advocate for the Respondent [s]

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The Hon'ble Mr. **A. S. Sanghavi** : Member (J)

The Hon'ble Mr. **M.P. Singh** : Member (A)

JUDGMENT

- 1, Whether Reporters of Local papers may be allowed to see the Judgment ? *NC*
- 2, To be referred to the Reporter or not ? *✓*
- 3, Whether their Lordships wish to see the fair copy of the Judgment ? *NC*
- 4, Whether it needs to be circulated to other Benches of the Tribunal ? *NC*

NC

V. R. Shukla,
Sr. Electrical Engineer (H.Q.)
R.E. Block, 3/D, Pratapnagar
Rly., Colony, Baroda - 390 004.

= Applicant =

Advocate : Mr. K. K. Shah

Versus

1. Union of India,
Notice to be served through
General Manager (Estt),
South Eastern Railway,
Garden Reach,
Calcutta - 700 043.
2. Chief Personnel Officer (Gaz),
S.E. Railway Head Quarter Office,
Garden Reach,
Calcutta - 700 043.
3. Chief Project Manager, RE,
Pratapnagar, Baroda - 390 004.
4. Secretary, Gujarat Electricity Board,
Vidyut Bhavan, Race Course,
Baroda - 390 007.

= Respondents =

Advocate : Mr. N. S. Shevde

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JUDGMENT
O.A 276 of 1991

Date : /06/2000

Per Hon'ble Shri. M. P. Singh : Member (A).

The applicant has filed this O.A praying that his past service in Gujarat Electricity Board (G.E.B) from 03.09.56 to 05.01.63 be counted for retiral benefits.

2. The brief facts of the case are that the applicant joined G.E.B on 03.09.56 and continued to work there up-to 05.01.63. While working in G.E.B the applicant submitted an application through proper channel for a post in South Eastern Railway. He was selected for the post and thereafter joined the Railway service. The case of the applicant is that if the service rendered by him in G.E.B. is not counted for the purpose of retirement benefits, his total qualifying service will be only 28 years, thus, falling short by 5 years to make a qualifying service of full 33 years for the purpose of full retiral benefits.

The applicant has submitted his representations to the Railway authorities on 27.01.89, 09.10.89, 21.11.89, 12.12.89

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and 25.09.90. There has been some exchange of letters between the Railway authorities and G.E.B., Baroda. According to the applicant the letter issued by the Dy. Secretary, G.E.B., Baroda on 30.09.89, and service certificate issued by the establishment officer (Tech.) are enough proof that the applicant has actually rendered service in G.E.B and his application was submitted through proper channel. The Railway authorities have not yet accepted the request of the applicant. Aggrieved by this, he has filed this O.A seeking directions to the respondents to count his service rendered by him in G.E.B. from 03.09.56 to 05.01.63 and grant consequential retiral benefits.

3. The respondents have contested the case and have stated that the applicant ought to have filed the present application within the period of limitation from the date of accrual of cause of action. Therefore, the application is barred by limitation period. According to them, G.E.B. have informed the respondents that the applicant was working with them from 03.09.56 to 05.01.63 but the records of 1963 are not traceable. They have stated that for the purpose of counting past service, submission of application for appointment in

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Railways through proper channel is a pre-requisite and in the present case, the G.E.B. has not stated that the application of the applicant was submitted by him for Railway service through proper channel. In view of these facts, the services rendered by the applicant in G.E.B. cannot be counted for the purpose of pensionary benefits under the instructions issued by the Railway Board.

4. Heard the learned counsel for rival contesting parties and perused the records.

5. It is not in dispute that the applicant rendered service in G.E.B. from 03.09.56 to 05.01.63 and it was in continuation to the service rendered by him in Railways. It has been certified by the G.E.B. Authority vide their letter dated 30.09.89 that the resignation of the applicant was accepted by the Board to join the Railway service. He was paid his Provident Fund from the Board. The Gratuity Act has come into force from 1972 after the acceptance of his resignation. Therefore, he has not been paid Gratuity. His services were continuous from 03.09.56 to 05.01.63 (Annexure A/8). A copy of the service certificate issued by the G.E.B. has been filed by


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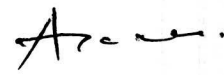
the applicant (Annexure A/9). According to this certificate, the work of the applicant while in service was satisfactory and he left G.E.B. to join the Railway service for his future prospectus. It is, therefore, clear that the fact about his joining Railway service was within the knowledge of G.E.B. and he was accordingly relieved to join the Railway service. If the applicant had not applied to the Railway authorities through proper channel, he would have not been relieved to join the Railway service and the objections would have been raised by the G.E.B. at the time of his resignation. In any case, the non-availability of the records with the G.E.B. cannot be a ground for denying pensionary benefits to the applicant which are otherwise admissible to him. As regards the objections raised by the respondents that the application is barred by limitation, the contention of the applicant is not tenable as the accrual of cause of action in respect of pensionary benefits is a continuous cause of action.

6. In view of the aforesaid facts and circumstances of the case, the O.A merits consideration and is, therefore, allowed. The respondents are directed to count the service of the applicant rendered by him in G.E.B. from 03.09.56 to

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05.01.63 for the purpose of calculation of retiral benefits including arrears of pension and Gratuity within a period of three months from the date of receipt of a copy of this order. No order as to costs.


(M. P. Singh)
Member (A)


(A. S. Sanghavi)
Member (J)

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