

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD**

C.P 56/99

Ahmedabad this the 19th day of July, 2001

**Hon'ble Mr. V.Ramakrishnan, Vice Chairman,
Hon'ble Mr. A.S Sanghvi , Judicial Member**

Ganesh Ram
54, Gandhi Chowk
Chowpatti,
Jaora
Dist. Ratlam

Applicant

Advocate : Mr. P.H Pathak

Versus

1. Mr. Singh
Chief Engineer
Or his successor in office
Central Zone,
Lucknow, U.P.
2. Mr. Arvindkumar, Col.
Or his successor in office
Commander, works Engineer
Bhopal (MP)
3. Mr. B. Srinavasa, Major
Or his successor in office
Garrison Engineer (MES)
MHOW Cantt
M.P

Respondents

Advocate : Mr. B.N Doctor

ORAL ORDER

We have heard Mr. Pathak earlier and also Mr. K.K Shah for the complainant and Mr. Doctor for the respondents.

2. The complainant has alleged that the directions of the Tribunal dated 9.3.98 in O.A 304/92 had not been complied with by the respondents. While disposing of that O.A, the Tribunal had passed the following order in para 5.

"It is clear that the applicant left the MES not by tendering a simple resignation which would result in forfeiture of past service as he had made a request for retaining the lien. The Jabapur Bench of the Tribunal had held that such lien has been retained. In the circumstances I hold that the resignation if it at all of the applicant was in the nature of technical resignation. It is seen from his letter dated 20.12.90 that he had continued in ONGC at least upto March 1990 and that he says that he received two promotions in that organisation up to that date. It is not clear that whether he has left the service of the ONGC now and if so from what date and on what basis. The Department is directed to treat his letter dated 24.4.81 as a technical resignation and the applicant should be given whatever benefits are available to such category of people who had left Government service to join ONGC at the relevant period. If on the basis of such an exercise, it transpires that the MES had to make some

contribution to the ONGC as pro rata retirement benefit for the service rendered by him in MES it shall do so. The entire exercise should be completed within four months from the date of receipt of a copy of this order. They shall not reject the claim of the applicant only on the ground that this letter dated April 1981 was a resignation. The letter dated 25.2.91 as at Annexure - A in so far as it denies benefits solely on the ground that he had resigned from Government service is quashed.

From the above directions, it is clear that whatever benefits are available to such category of people who had left Government service and joined ONGC during the relevant period shall be given to the applicant by treating the resignation at a technically. In other words the qualifying service rendered by him in the MES is not forfeited only on the ground of technical resignation. This order would be applicable if the ONGC, has a pensionary scheme and if there are Government instructions which provide that on transfer to the ONGC from Central Government department, the service earlier rendered in government department would also be counted as qualifying service. If there is a requirement of

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Pensionary contribution for the Government service to be treated as qualifying service. ONGC ~~was~~ required to be given such contribution.

3. The respondents have taken the view that the applicant would be entitled to gratuity and not pension. The Tribunal had then directed the respondents vide order dated 16.11.2000 that a detailed affidavit should be filed for denying pension in this case. Such affidavit has been filed by the respondents dated 6.6.2001. We have gone through this affidavit and find the complainant had put in 17 years of service in the MES. In other words he had put more than 10 years of qualifying service but less than 20 years of service. Pension is admissible for the service in MES where a person retires in accordance with the rules. Rule 49 of the CCS (Pension) Rules states that :

“ In the case of a Government servant retiring in accordance with the provisions of these rules before completing qualifying service of thirty-three years, but after completing qualifying service of ten years, the amount of pension shall be proportionate to the amount of pension ”

admissible under clause (a) and in no case the amount of pension shall be less than (Rupees three hundred and seventy-five) per mensem"

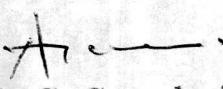
A Government servant is entitled to pension after superannuation. A Government servant who has completed not less than twenty years of qualifying service, will be entitled to pension if he has retired after giving notice of not less than three months in writing to the appointing authority, ~~as~~ if it is accepted by the authority. As such there is no entitlement of pension for the service rendered in the Government in terms of Rule 49 when the applicant has put ~~as~~ less than twenty years of qualifying service.

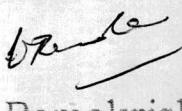
4. The direction of the Tribunal was given in the context ~~of~~ ^{that} the service rendered by the applicant in the MES would not be wiped out if there is a pensionary scheme in the new establishment and if the rules provide for taking into account the past service rendered in Government service, if necessary by payment of pensionary contribution. The ONGC has no such pensionary scheme. There is thus no question of adding

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qualifying service in the MES for the service rendered by him
for the purpose of retiral benefits to be given by the ONGC.

4. C.P disposed of and notice discharged.


(A. S. Sanghvi)
Member (J)
mv


(V. Ramakrishnan)
Vice Chairman

Sr. No. 01 (SC) 2002

Dated: 24/09/02

Submitted : Hon'ble Vice Chairman &

Hon'ble Mr. A.S.Sanghavi, Member (J)

Hon'ble Mr. G.C. Srivastava, Member (A)

Certified Copy of order dated 21/08/02 in CA/1456/2002 M
CP/50/89 in OA/304/92
Sect. SCA. No. _____ of _____ passed by the
Supreme Court/~~High Court~~ against the Judgment/~~Final~~
Order passed by this Tribunal in CA/304/92 is placed
for perused please.

HR
24/09

~~Amrit Kaur~~
S.D. (J)

~~D.R.~~
D.R. (J)

~~2019~~
Registers

~~SCA, dismiss~~
Hon'ble Vice Chairman

Hon'ble Mr. A.S.Sanghavi, Member (J)

Hon'ble Mr. G.C. Srivastava, Member (A)

~~Amrit Kaur~~
e-CHIE

All communications should be addressed to the Registrar, Supreme Court by designation, NOT by name
Telegraphic address :-
"SUPREMECO"



D.No.659/2002/XVII
SUPREME COURT
INDIA
NEW DELHI

Dated: 3rd September, 2002

FROM:

THE ASSISTANT REGISTRAR,
SUPREME COURT OF INDIA,
NEW DELHI.

To.

The Registrar,
Central Administrative Tribunal,
Ahmedabad Bench Ahmedabad.

CIVIL APPEAL NO. 1458 OF 2002
(CAT Contempt Petition No. 56 of 1999)

Ganesh Ram

... Appellant

Versus

Mr. Singh Chief Engineer & Ors.

... Respondents

Sir,

In pursuance of Order XIII, Rule 6, S.C.R. 1966, I am directed by their Lordships of the Supreme Court to transmit herewith a Certified Copy of the Order dated the 21st August, 2002 in the Appeal above-mentioned. The Certified Copy of the Decree made in the aforesaid appeal will be sent later on.

Please acknowledge receipt.

Yours faithfully,

Arvind
ASSISTANT REGISTRAR

*T. S. Chaturvedi
9/11/02
S. Chaturvedi*

*Arvind
13/9/02
13/9/02*

D.No.659/2002/XVII/XIII-B.

SUPREME COURT
INDIA
NEW DELHI

All communications should be
addressed to the Registrar,
Supreme Court by designation,
NOT by name
Telegraphic address :-
"SUPREMECO"



From: The Registrar(Judicial),
Supreme Court of India,
New Delhi.

To: The Registrar,
Central Administrative Tribunal,
Ahmedabad Bench, Ahmedabad.

CIVIL APPEAL NO.1458 OF 2002.

Ganesh Ram

..Appellant

Versus

Mr. Singh & Ors.

..Respondents

Sir,

In continuation of this Registry's letter of even number dated the 3rd September, 2002, I am directed to transmit herewith for necessary action a certified copy of the Decree dated the 21st August, 2002 of the Supreme Court in the said appeal.

Please acknowledge receipt.

Yours faithfully

for REGISTRAR(JUDICIAL)

18/9/02

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1458 OF 2002

Certified to be true Copy
Affirman
Assistant Registrar (Jud.)
04-9-2002
Supreme Court of India

Ganesh Ram

...Appellant

versus

•612843

Singh & Ors.

...Respondents

ORDER

Appeal admitted.

This appeal has been preferred from the order of the Central Administrative Tribunal, Ahmedabad Bench, Ahmedabad dismissing the application for contempt. The subject matter of the contempt application was an order passed by the respondents "refusing to pay the petitioner's pension for the period of his service in the M.E.S. The Tribunal held in the contempt application that the refusal was justified.

Having regard to the nature of order of which it is alleged that the respondents have committed contempt, we are of the view, that the Tribunal should have held that by passing the impugned order there was no contumacious conduct. The application should have been rejected in limine on that ground. There was no occasion for the Tribunal to go into the merits of the

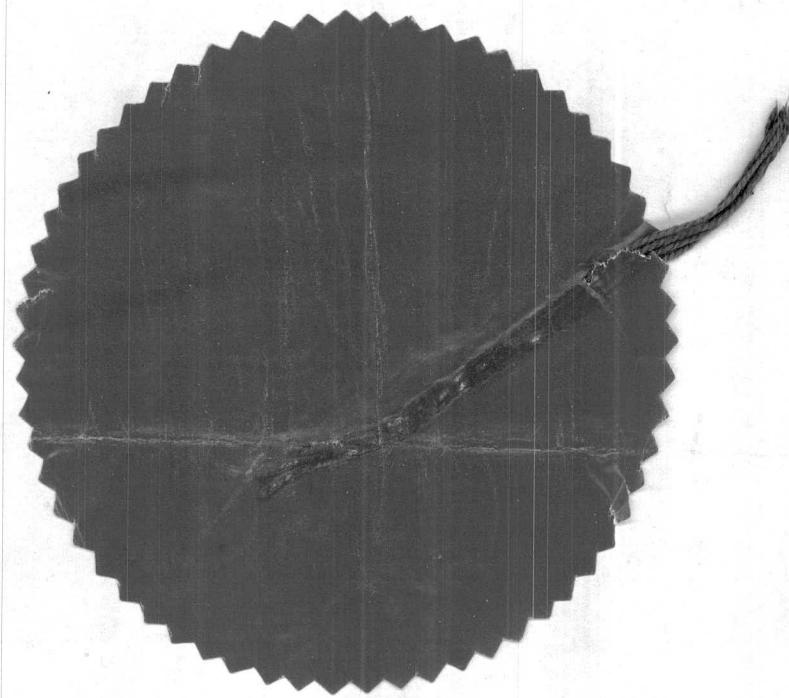
order passed by the respondents. We accordingly dismiss the appeal in the aforesaid circumstances. We make it clear that we are not expressing any view on the merits of the impugned decision taken by the respondents.

There shall be no order as to costs.

New Delhi,
August 21, 2002

(RUMA PAL)

(ARIJIT PASAYAT)



SEALED IN MY PRESENCE

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IN THE SUPREME COURT OF INDIA

CRIMINAL/CIVIL APPELLATE JURISDICTION

-615189

Certified to be true copy

Ammar

Assistant Registrar (Judi.)

... 11-9-2002

Supreme Court of India

2002

of

CIVIL APPEAL NO. 1458 OF 2002

(Appeal under Section 19 of the Contempt of Courts Act, 1971 from the Order dated the 19th July, 2001 of the Central Administrative Tribunal, Ahmedabad Bench, Ahmedabad in Contempt Petition No. 56 of 1999).

Ganesh Ram
r/o 54, Gandhi Chowk Chowpatti,
Tehsil Jaora, District Ratlam,
M.P.

..Appellant

Versus

1. Mr. Singh
Chief Engineer or his Successor
in office Central Zone,
Lucknow, U.P.

2. Mr. Arvindkumar, Col.
Or his successor in office
Commander Works Engineer,
Bhopal (M.P.).

3. Mr. B. Srinavasa, Major
or his successor in office
Garrison Engineer (MES),
MHOW Cantt, M.P.

..Respondents

21st August, 2002.CORAM:

HON'BLE MRS. JUSTICE RUMA PAL
HON'BLE MR. JUSTICE ARLJIT PASAYAT

For the Appellant: Mr. Niraj Sharma, Advocate.
For the Respondents: Mr. Mukul Rohtagi, Additional Solicitor
General of India,
(M/s. R.N. Poddar, Satpal Singh and B.V.
Balaram Das, Advocates with him).

The Appeal above-mentioned being called on for hearing before this Court on the 21st day of August, 2002; UPON perusing the record and hearing counsel for the parties herein, THIS COURT without expressing any view on the merits of the impugned decision taken by the respondents DOTH ORDER:

1. **THAT the appeal above-mentioned be and is hereby dismissed;**
2. **THAT there shall be no order as to costs of this appeal in this Court;**

AND THIS COURT DOTH FURTHER ORDER that this ORDER be punctually observed and carried into execution by all concerned;

WITNESS the Hon'ble Shri Bhupinder Nath Kirpal, Chief Justice of India, at the Supreme Court, New Delhi, dated this the 21st day of August, 2002.

sdl
(R.P. DUA)
JOINT REGISTRAR

R.P.

REGISTRATION

SUPREME COURT

CRIMINAL/CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1458 OF 2002.

Ganesh Ram

Appellant
Petitioner

Versus

Mr. Singh & Ors.

Respondent

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD.
Contempt Petition No. 56 of 1999
DECREE DISMISSING THE APPEAL WITH NO
ORDER AS TO COSTS.

Dated the 21st day of August, 2002.

Mr. Niraj Sharma,

the Appellant.

Mr. B.V.Balram Das,

the Respondents

No. of folios

Advocate on Record for

Seal

/kandwal/
/1092002/

Contra
SEALED IN MY PRESENCE