

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. NO. 471 OF 1992.

~~T.A. NO.~~

DATE OF DECISION 15-9-1995.

G.G. Chandiramani, Petitioner

Mr. P.K. Handa, Advocate for the Petitioner (s)

Versus

Union of India & Ors. Respondent s

Mr. N.S. Shevde, Advocate for the Respondent (s)

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The Hon'ble Mr. V. Radhakrishnan, Admn. Member.

The Hon'ble Mr.

JUDGMENT

1. Whether Reporters of Local papers may be allowed to see the Judgment ?
 2. To be referred to the Reporter or not ?
 3. Whether their Lordships wish to see the fair copy of the Judgment ?
 4. Whether it needs to be circulated to other Benches of the Tribunal ?
- 120

G.G. Chandiramani,
T.21/316, Kot Sant Kanwar Colony
Vadodara.

Legal heirs.

- 1) Smt. Nirmal G. Chandiramani
widow of Late Shri G.G.Chandiramani,
- 2) Shri Kamal G.Chandiramani
son, T21/316 Kot, Sant Kanwar Colony,
Vadodara.
- 3) Mrs. Vandhna Raju Gehani
daughter, 21, Nilkesh Appartment
Rajesh Rowa Road, Vadodara.
- 4) Smt. Manisha L. Tandwani
378 Laxmi Sadan,
Katju Nagar, Rodla.
- 5) Smt. Anu P. Bakhra,
6th Floor, Indarni Appartment
Nanpur, Surat.

..... Applicant.

(Advocate: Mr. P.K. Handa)

Versus.

1. Union of India, owing &
represented by General Manager,
Western Railway, Churchgate,
Bombay - 400 020.
2. Chief Signal & Telecommunication
Engineer (Const.)
Western Railway,
Churchgate, Bombay.

..... Respondents.

(Advocate: Mr. N.S. Shevde)

ORAL JUDGMENT

O.A.No. 471 OF 1992

Date: 15-9-1995.

Per: Hon'ble Mr. V.Radhakrishnah, Admn. Member.

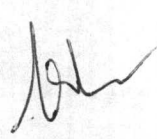
1. Heard Mr. N.S.Shevde for the respondents today.
Mr. P.K. Handa had completed his arguments during the
last date of hearing.

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2. The applicant retired from Railways as Deputy Chief Signal & Telecommunication Engineer, Western Railway on 16.2.1989. After filing of the O.A. the applicant expired on 13.4.1995 and consistently his legal heirs have been substituted in the place of the applicant.

3. The applicant's contention is that at the time of sanctioning his pension, his service rendered in the State Government of Gujarat wherein he served firstly in the office of the S.D.O., PWD, Ahmedabad from 23.8.1958 to 10.7.1959 and subsequently under Dr.S & S.S. Ghandhy College of Engineering and Technology, Surat under the control of State Government of Gujarat from 21.7.1959 to 12.8.1960 had not been taken into account. The applicant had joined the Railway service on 17.8.1960. The applicant has enclosed letters from Superintending Engineer, P.H.M.C. Ahmedabad and Dr.S & SS Ghandhi College of Engineering and Technology, Surat agreeing to accept the pension liability for his service in both these institutions. Accordingly he has claimed the following reliefs:

"8.(a): In view of the facts mentioned in para 4 above, the applicant prays to the Hon'ble Tribunal to quash and set aside the PPO shown in Annexure A and to direct the respondent to issue fresh PPO by counting his previous services rendered in State Government of Gujarat prior to joining the Railways, giving him all retirement benefits including interest."




4. The respondents have filed reply. The first objection taken by them is that the application is not filed within one year from the date of accrual of cause of action and hence barred by limitation. Further they have stated that the applicant was compulsorily retired. He is not entitled to count the service rendered by him in the two institutions of the State Government as the conditions lays down in the rules are not satisfied. They have taking into account the service rendered by him in the Railways out and accordingly his pension has been calculated correctly. They have stated that on receipt of his representation the Railways had made references to institutions wherein the applicant had worked before joining Railways and the replies are given in Annexure R/1 & R/2. The Superintending Engineer, Government of Gujarat has stated that the information asked for by the Railways could not be furnished as the records had been destroyed due to heavy flood. The Faculty of Technology and Engineering, Baroda has stated that information cannot be supplied as the records are not available with them. The main contention of the Railways appears to be that, there is no definite information regarding as to whether the applicant had applied for railway job through proper channel and whether he had given technical resignation before getting that job and that it was accepted by the competent authority.



5. The orders regarding counting of temporary service under State/Central Government is given in the Government of India, Department of Personnel & A.R. letter No.3(20)/Pen.(A)/79, dated 31st March, 1982. This orders are also repeated in the Railway Board's letter dated 31.11.1982, Annexure A/4. As per this letter the benefit of counting service in the State Government for persons joining Central Government is admissible to those who while holding temporary posts under State Government apply for posts under Central Government through proper channel with proper permission of the administrative authority concerned. The applicant has produced letter from Superintending Engineer P.W.D. Ahmedabad (Ann. A/5) stating that the service in the department from 23.8.1958 to 10.7.1959 was pensionable service and no terminal benefit was paid to him. They have categorically stated that the pension liability for his service is acceptable as per Government orders/GWS & SB Gandhinagar. In the next letter, Annexure A/5, Dr.S & S.S. Ghandhi College of Engineering & Technology, Surat have also stated that even though his information regarding resignation is not available due to absence of old record, his period of service from 21.7.1959 to 12.8.1960 is certified and his service are pensionable and more over the pension liability for his service are acceptable as per Government orders. Once the two organisation of the State Government have accepted that the service of the applicant was certified and pensionable the only information which according to the Railways which is




missing is whether he applied through proper channel and whether his technical resignation was accepted. The actual position is not ascertainable and old records are not available. The applicant has made distinct averment that he had applied for the post of Assistant Lecturer in the Surat College through proper channel when he was serving in P.W.D. Gujarat Government, Ahmedabad. Similarly he has averred that he had applied for Railway service through proper channel while he was serving in P.W.D. Gujarat State, Ahmedabad. Judicial notice can be taken of the fact, in the Government, no application for appointment made by candidate, who is already serving in a particular department of the Government either Central or State, is normally considered unless the same is forwarded for consideration by the concerned authority of the department where such a candidate is already working. The applicant, therefore, is entitled to press into service the well-known rule of evidence that there is a presumption of official acts being duly performed. This presumption is however, rebuttable. The respondents have contended themselves by merely stating that the records are not available. This is not enough to rebut the presumption. We, therefore, find no reason to disbelieve the version of the applicant i.e., his application for railway service for forwarded through proper channel. More over the two letters, Annexure A/5, written by the P.W.D. Gujarat State as well as the Surat College shows that the State Government has accepted pension liability for the applicant's service under them. These



departments would not have agreed to bear pension liability if there was any doubt regarding forwarding of xhis application to the Railways without their knowledge. The conclusion is inevitable that the applicant forwarded his application through proper channel and he was relieved to accept the alternative job. Hence the service rendered by him in the two organisations of the State Government is eligible to be counted towards pension. In so far as the applicant's prayer regarding counting his service in the M.S. University Baroda is concerned, we are unable to accept his contention as the University does not come within the purview of the orders quoted above. In so far as the question of limitation raised by the respondents is concerned, as pension is recurring payment and the loss is recurring one, this argument is rejected.

6. Taking into account the facts and circumstances of the case, the case is remanded back to General Manager, Western Railway to reconsider keeping in mind our observations as stated above, and decide the case of the applicant for counting the service rendered by him from 23.8.1958 to 10.7.1959 in ~~BWD~~ Gujarat State and for the period 21.7.1959 to 12.8.1960 in the S & S.S. Gandhi College of Engineering & Technology, Surat as per rules so that his qualifying service for the purpose of pension is revised. Accordingly the applicant's retirement benefits shall be revised taking into account the revised qualifying service



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within a period of three months from the date of the receipt of this order. With the above directions O.A. stands disposed of accordingly. No order as to costs.



(V. Radhakrishnan)
Member (A)

vtc.