

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL CUTTACK BENCH

Original Application No. 137 of 1995

Cuttack this the 8th day of Nov - 1995

Achyutananda Mall ... Applicant(s)

Versus

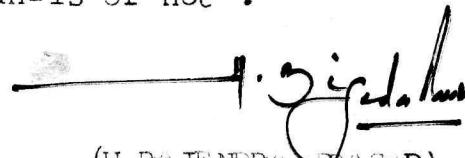
Union of India & Others ... Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? No.
2. Whether it be circulated to all the Benches of the Central Administrative Tribunals or not ? No.



(P. SURYA PRAKASH M)
MEMBER (JUDICIAL)



(H. RAJENDRA PASAD)
MEMBER (ADMINISTRATIVE)

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CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH

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Cuttack this the 8th day of Nov 1995

C O R A M:

THE HONOURABLE MR. H. RAJENDRA PRASAD, MEMBER (ADMN)

&

THE HONOURABLE MR. P. SURYA PRAKASH, MEMBER (JUDICIAL)

...
Achyutananda Mall, aged about 62 years,
Son of Ananta Charan Mall, of village-
Ekamarnagar, PO: Kendrapatna, P.S. Salipur
Dist: Cuttack at present House No. VIM:671
Sailashree Vihar, PO/PS: Chandra Sekharpur,
Bhubaneswar, Dist: Khurda

...

Applicant

By the Advocate: M/s. P.K. Padhi
D.K. Nayak

Versus

1. Union of India, represented through the Director Central Counsel of Scientific and Industrial Research, Fafi Marg, New Delhi-110001
2. The Director, Regional Research Laboratory, Bhubaneswar, Dist: Khurda
3. The Superintending Engineer, Calcutta Central Circle No. II, Central Public Works Department, Nizam Palace, 234/4, Acharya J.C. Bose Road, Calcutta-20
4. The Superintending Surveyor of Works (F) I.P. Bhawan, Central Public Works Department New Delhi

...
Respondents

By the Advocate: Mr. U.B. Mohapatra,
Addl. Standing Counsel (Central)

...

O R D E R

MR. H. RAJENDRA PRASAD, MEMBER (ADMN): The applicant, Shri Achyutananda Mall, joined as L.D.C. in the Office of the Executive Engineer, Orissa Central Division, Central Public Works Department, Bhubaneswar, on 30th December, 1955. Subsequently, he applied

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5 for the post of U.D.C. in the Regional Research Laboratory, Bhubaneswar, and was selected for appointment on 17th August, 1964, whereupon he submitted a 'technical'-resignation from the C.P.W.D., was relieved to join his new post on 30th September, 1964, and joined the Regional Research Laboratory as U.D.C. on 1st October, 1964. Ever since he joined the new post, the applicant has been continuously representing to the authorities that the service of 8 years and 9 months rendered by him in the CPWD prior to his joining the Laboratory should be taken into reckoning for fixation of his retiral benefits. No progress was made, however, and the applicant retired from the Laboratory on 31st December, 1992, without having received any relief from either the C.P.W.D. or the Regional Research Laboratory.

(b) There has been a protracted but apparently spasmodic correspondence between the RRL and the CPWD authorities in the matter. The service-book of the applicant as well as the particulars of service rendered by him in CPWD are not available or forthcoming. In the meanwhile, the Council of Scientific and Industrial Research held that there was no objection to the counting of the past services of the applicant in the C.P.W.D. provided that organisation 'extinguished' its pecuniary liability and made the appropriate payment thereof to the Council. A certificate issued by the Superintending Engineer, Coordination Circle, Eastern Zone, C.P.W.D., Calcutta, confirming the applicant's service in their organisation, which happens to be the only authentic official document

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available, has been produced as Annexure-16 to the Original Application.

(c) It needs to be noted that within a month, i.e., 1st October, 1964, from the date of his joining the RRL, the applicant took up his claim and has been pursuing his case since then with no satisfactory result till date of filing this application.

(d) This application is filed Under Section 19 of the Central Administrative Tribunals Act, 1985, praying for a direction to be issued to the Director, RRL, Bhubaneswar, to count his past service in the CPWD, and also to revise his pension, D.C.R.G., and other relevant benefits, accordingly. The applicant also prays for interest @ Rs.12/- per cent per annum on the delayed payments due to the non-settlement of his claim.

2.) The respondents in their counter-affidavit submit that they have made all efforts to obtain the service-book of the petitioner relating to his tenure in CPWD, and state that unless the service-book is produced by the CPWD, the applicant's request cannot be examined or accepted. They say that the applicant did not make any prior request for the counting of his service in the CPWD before accepting the offer of appointment and joining the RRL. It is added that no assurance was held out to him that his past service shall be counted, nor did the offer of appointment contain any such promise. They are not aware as to whether or not the service rendered by him in the CPWD is pensionable or whether the entire

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7 service rendered in C.P.W.D can be regarded as qualifying service, or, if not what portion of it should be so counted. No leave account for the period is available and there is no reliable document which could support or substantiate the applicant's claim.

Under the circumstances stated, the respondents assert that they are under no obligation to grant any benefit in respect of services rendered by the applicant in C.P.W.D., and that the application does not deserve favourable consideration.

3. This is an unusual case where the applicant has been pursuing his claim for three decades. He has not certainly been slumbering over his rights or entitlements. He has not neglected to take up the claim in time. If the claim remains unsettled long after his superannuation, it is due entirely to the failure of the part of one of the two organisations, viz., C.P.W.D., to provide the required information of a routine nature concerning the applicant's past service under them. The plea is that there has been considerable organisational change in the C.P.W.D., and that the erstwhile office in which the applicant was initially employed has since been trifurcated among successor offices located now in different stations and states. The R.R.L. on its part, does not seem to have extended urgent or concerted attention to verify the applicant's claim. It is true that some correspondence has taken place between the R.R.L and C.P.W.D, but the overall effort on the part of both the offices has been at best

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lackadaisical. A larger blame of course attaches to the CPWD in this case.

At one point the C.S.I.R. asked the applicant to produce collateral evidence of his service in the CPWD. The CSIR authorities were perhaps not strictly to be faulted in doing so. However, it cannot be said to be ^a practicable answer to the problem. Asking the applicant, ^{as a} ~~retired official,~~ to produce evidence of this far-reaching kind cannot be termed fair, as such evidence cannot be produced by him easily after such a long lapse of time when even the concerned Department of the Government which employed him has not been able to produce the minimum essential information of routine nature. He has been out of the CPWD for more than three decades, has possibly lost contact with all of his erstwhile colleagues or associates in that organisation, and has no paper or evidence any longer which could provide documentary evidence to reinforce his claim.

Be that as it may, the applicant has sworn an affidavit detailing the service rendered by him in CPWD. There also exists a document corroborating this in the form of a certificate issued by the CPWD itself (Annexure-16).

4. The applicant has already suffered a great loss owing to the continued inaction on the part of the respondents, specially the CPWD. Eventually he has gone into retirement without securing any relief on a claim which he had initiated 28 years prior to his retirement. This is not a happy commentary on the state of redressal

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of legitimate claims and grievances. The CPWD is a Department of the Government and the CSIR/RRL are not private bodies either. All of them ought to be informed by the same concern for the welfare and legitimate entitlements of their personnel. Viewed against the inordinately long lapse of time with regard to the settlement of claim, it is to be observed with regret that such anxiety or concern have not been very much in evidence in the present case.

5. In this case, the basic issue is not whether the service rendered by the applicant counts for pension. The Respondents have not really questioned this. Such counting of the past service is also envisaged by the orders contained in Ministry of Home Affairs, Department of Personnel and Administrative Reforms Memo No.28/10/34-Pension Unit dated 29th August, 1984, regarding Mobility of personnel between Central Government Departments and Autonomous Bodies.

(Annexure to the counter-affidavit filed by Respondents 1 & 2).

Para 3 (a) (i) covers the facts of the case. The problem faced by C.S.I.R./R.R.L. in this case is that it is not known to them as to the extent of qualifying service which the applicant had rendered in the C.P.W.D. And in view of the total silence of the C.P.W.D. authorities in this regard - they have not responded to the present Original Application, either - they are unable to concede the claim of the applicant. Thus, the whole issue gets reduced to one of inaction and lack of response from the C.P.W.D. There is no reason why the applicant should continue to suffer endlessly on account such inexplicable unresponsiveness

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6. Taking into consideration the overall circumstances and the facts revealed so far, it is considered expedient to issue the following directions in this case :-

a. Superintendent Engineer, Calcutta Central Circle No.1, C.P.W.D. Calcutta (Respondent No. 3) shall -

- a) have the Service-book of the applicant traced and despatched, along with the Last Pay Certificate, to Director-General, CSIR, New Delhi; or, in the alternative,
- b) forward such document(s) to him which may clearly indicate the details of the service, including, importantly, the extent of qualifying service, rendered by the applicant in the CPWD; and additionally,
- c) cause to obtain and forward to D.G., CSIR, a letter of concurrence of the relevant and competent authority in the CPWD, for the discharge of its liability by a one-time lump-sum payment of pro-rata pension, gratuity and other terminal benefits insofar as his past service of the applicant in CPWD is concerned.

This action shall be completed by Respondent No.3 within sixty days from to-day.

B. On receipt of the Service-Book, L.R., or other document(s) mentioned in para A above, Respondent No.1 (D.G., C.S.I.R., New Delhi) shall have -

- i) the revised retiral benefits of the applicant recast and cause the necessary **sanctions** issued within thirty days thereafter;
- ii) the necessary follow-up action taken to disburse the benefit to the applicant within thirty days of the date of issue of the sanction mentioned in sub-para (i) above

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C. (i) It is held that the applicant has become fully entitled to interest @ 10% p.a. on the enhanced monetary benefits which may be found due to him on completion of the exercise mentioned in B(i) and (ii). Such interest shall be payable from the date of disbursement of each relevant benefit to the applicant after his superannuation from R.R.L. till the date of issue of revised sanction(s) in accordance with B(ii) above. The liability of the interest so paid shall have to be borne by C.P.W.D. since it is basically their inaction and failure which contributed to the present situation.

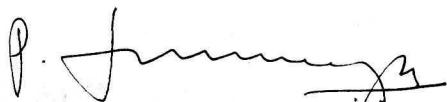
(ii) The interest on arrears of revised entitlements shall be sanctioned by Respondent 1, and paid to the petitioner within thirty days of the disbursement of benefits as mentioned in para-B(ii) above. This amount may be got reimbursed subsequently by C.P.W.D. through such usual inter-ministerial/departmental procedures as may be prescribed in such situations.

D. In case the Respondent No.3 (Superintending Engineer, C.P.W.D., Calcutta Central Division No.1) fails to comply with the directions contained in A (a) to (c) above within the time-limit or furnishes insufficient information or documents to Respondent No.1 (D.G., C.S.I.R.), the latter, i.e., D.G., C.S.I.R., shall proceed to complete the further action required of him at B(i) & (ii) on the basis of the affidavit sworn by the applicant on 21st January, 1994, and which is annexed (A-15) to the Original Application, treating the contents thereof as true and correct. In such an eventuality, the subsequent adjustment of the C.P.W.D. liability, in the same manner as indicated at C(ii) above. The applicant has no further role to play in this and the disbursement of revised benefits to him shall on no account be delayed by

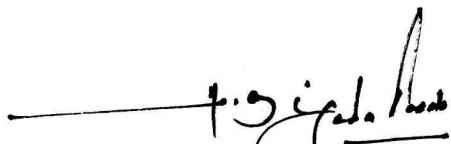
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by C.S.I.R. and Director, R.R.L. beyond the time-limits indicated. He has already waited long enough and the settlement of a pensioner's claim would not brook any postponement. Any further delay shall be indefensible.

Thus the Original Application is disposed of. No costs.



(P.SURYA PRAKASH H.M.)
MEMBER (JUDICIAL)



(H.R.A. JEETENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

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B.K.Sahoo//

Presented in the open Court on 8-11-95.

Devasimhawad.

8/11/95.

Member (Adm)
on tour at Cuttack.