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O.A. NO.678/1999

ORDER DT.27.08.2003

The Applicant ( Sri Jatindra Mohan Beura, who entered into the Post and Telegraph services as a Repeater Station Assistant on 06.06.1971) remained in the Department of Telecommunications and was relieved on 06.12.1981 as Transmission Assistant of the Carrier Station at Jatni ( of Khurda District of Orissa) after bifurcation of Post and Telegraph Department. The Applicant had filed this Original Application under Section-19 of the Administrative Tribunals Act, 1985 ( on 31.12.1999) with a prayer for issuance of direction to the Respondents to grant him pension and other retiral benefits with interest.

2. In the counter filed by the Respondents, it has been disclosed that the Applicant having resigned from services ( with effect from 05.12.1981 ) he was/is not entitled to any pensionary benefit; as claimed in this Original Application.

3. For the reason of above pleading; as placed in this case, it is to be decided in this case as to whether the Applicant was/is entitled to any relief/pensionary benefits; when he resigned from service on 05.12.1981.

4. Heard Mr. D.P.Dhalsamant, learned Counsel appearing for the Applicant and Mr. B.Dash, learned Additional Standing Counsel appearing for the Respondents.

5. In this Original Application, the Applicant has claimed pensionary benefits. As per the Respondents, the Applicant served the department for more than 10 years. The main objection of the Respondents is that as the Applicant having resigned from services, he is not entitled to any pension in terms of the Rule-26 of the Central Civil Services (Pension) Rules, 1972. A similar matter came up for consideration before the Division Bench of this Central Administrative Tribunal at Jabalpur in O.A. No.623/1991-between A.P.Shukla Versus Union of India and others decided on 13.10.1995; in which case the Applicant had tendered resignation on 11.05.1971, after completing 17 years 9 months and 10 days service. The Applicant therein was a Railway servant. The objection of the Respondents in the said case was that since the Applicant had resigned from job, he was not entitled to pension under rule-311 of the Manual of Railway Pension (Rules of 1950)

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and the said question was dealt with by the Jabalpur Bench of this Tribunal; relevant portion of which is reproduced below:-

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" The first question to be considered is whether the resignation tendered by the Applicant can be treated as retirement for the purpose of grant of pension. The Applicant has relied on M/s J.K.Cotton Spinning and Weaving Mills Company Ltd. Kanpur Vs. State of U.P. and Others (AIR 1990 SC 1808) in which the employees' request contained in the letter of resignation was accepted by the employer and that brought to an end the contract of service. The meaning of the term " resign " as found in the Shorter Oxford Dictionary includes ' retirement '. Therefore, when an employees voluntarily tenders his resignation it is a act by which he voluntarily gives up his job. Therefore, the resignation of the Applicant could be treated as superannuation for all purposes."

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" The Apex court in the case of M/s J.K.Cotton Spinning and Weaving Mills Company Ltd. Kanpur (supra) held that the resignation amounts to voluntary retirement. The Applicant after all has served the department for 10 year. Had he not tendered his resignation he would have received pension. As such when there is voluntary resignation, there is a termination of service which for the purpose of pension may be treated as voluntary retirement though under the rule this benefit is available only on completion of 30 years of service."

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"Why a person who could get pension on completion of 10 years of service should not be equated with a person who has tendered resignation after 17 years of service as having performed his service for 10 years for the purpose of obtaining pension."

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6. Another matter ~~was~~ also fell for consideration of this Central Administrative Tribunal at its' Lucknow Bench( in O.A.No.353 of 1994-between Om Prakash Singh Maurya Vs.Union of India and others reported in 11/99 Samynews 74 ) wherein the Applicant claimed pension with effect from 01.02.1978; for he served a period of 14 years, 4 months and 26 days with effect

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03.09.1963 to 01.02.1978. In the said case, the main objection of the Respondents was that as the Applicant therein resigned from service, he was not entitled to pension in terms of Rule-26 of the Central Civil Services (Pension) Rules, 1972. By relying on the judgement rendered in the case of A.P. Shukla (supra), the Lucknow Bench of this Central Administrative Tribunal granted relief to the Applicant therein i.e., Om Prakash Singh Maurya.

7. In the present case, the learned counsel for the Applicant has also placed reliance on another Division Bench decision of this Central Administrative Tribunal (at its Principal Bench, New Delhi) rendered in case of Smt. Bimla Devi Vs. Union of India and others reported in 1992(2) SLJ 310 ; Wherein the Applicant had submitted resignation. In that case of Smt. Bimla Devi (supra) it was held that the Applicant therein was entitled for pension.

8. In the above view of the matter <sup>and the</sup> decisions rendered in the aforesaid cases, I am of the view that the pension cannot be forefeited in terms of Rule-26 of the C.C.S. (Pension) Rules, 1972 and, as a consequence, the Applicant of this case is entitled to pension/pensionary benefits ; for he served the department/pensionable establishment for more than 10 years.

9. This Original Application is accordingly allowed. No costs. The pensionary benefits should be extended to the Applicant within 120 days hence.

*Manoranjan Mohanty*  
( MANORANJAN MOHANTY )  
MEMBER (JUDICIAL) 27/08/2003

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