

48

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.101/2001

Cuttack, this the 8th day of ~~June~~, 2004

July

B. Venkateswar Rao

.....

Applicant(s)

Vrs.

Union of India & Others

.....

Respondent(s)

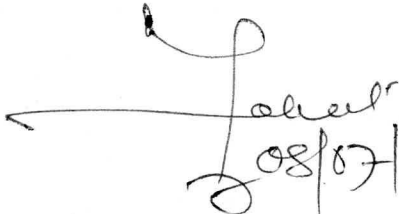
FOR INSTRUCTIONS


(1) Whether it be referred to the Reporters or not ?

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(2) Whether it be circulated to all the Benches of the Central Administrative Tribunal or not?

49


(M.R. MOHANTY)
MEMBER (JUDICIAL)


(B.N. SOM)
VICE-CHAIRMAN

12

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CORAM:

HON'BLE SHRI B.N. SOM, VICE-CHAIRMAN
&
HON'BLE SHRI M.R. MOHANTY, MEMBER (J)

Shri B. Venkateswar Rao, aged about 67 years, S/o Late B. Simhachalam Patnaik, at present staying at House No.14-4-44, Kolagatalavari Street, Viziayanagaram-2, Andhrapradesh.

..... Applicant.

By the Advocate(s) Mr. S.S. Rao,

-Vs-

1. Union of India represented through General Manager, S.E. Railways, Garden Reach, Calcutta-43.
2. Divisional Railway Manager, S.E. Railway, Khurda Road, Dist-Khurda.
3. Senior Divisional Accounts Officer, S.E. Railway, Khurda Road, Dist-Khurda.
4. Senior divisional Personnel Officer (Schools), S.E. Railway, Khurda Road, Dist-Khurda.

.....Respondent(s)

By the advocate(s) Mr.P.K. Mishra

ORDER

SHRI B.N. SOM, VICE-CHAIRMAN: This O.A. has been filed by B.V. Rao, whose grievance is that the Respondents have denied him the benefit of counting of

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13

his past service as a teacher in Zilla Parishad High School, Srikakulam. He has therefore challenged the letter No.SRDAO, KUR/PEN/REV/BR dt.05.01.01 rejecting his claim for counting his past service for pensionary purpose.

2. The admitted facts of the case are that the applicant joined the Respondent's Department as Assistant Teacher in 1962 and before that he had been working as a senior grade Assistant Teacher in Zilla Parishad High School, Srikakulam. He at last retired from Railway service with effect from 31.07.93 as teacher Grade -II (senior grade) after completing thirty one and half years of qualifying pensionary service. He has however, been paid all settlement dues and pensionary benefits in time. Arrangement has been made for payment of pension to him through State Bank of India Vizianagaram Branch, Andhra Pradesh. As per his instruction it was only after superannuation from service that the applicant approached the Respondents administration with a grievance to count his service under State Govt. of Andhra Pradesh for pensionary benefits.

3. The Respondents in their counter have disclosed that they had very carefully considered the grievance of the applicant regarding counting of past service of the applicant for pensionary purpose. However, they could not agree to count his past service while he was working as Assistant Teacher in State Government on the

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ground that he did not apply for the post of Asstt. Teacher through proper channel while making application for the job in the Railways and that no such entry is available in his service record maintained by the Zilla Parishada High School earlier. Similarly, no record is available regarding the date of sparing him from State Government service to Central Government service. Further, they have stated that on scrutiny of service record of Zilla Parishad School vide Annexure-I of the O.A. it revealed that he was granted leave on loss of pay (i.e. leave without pay) from 07.04.1962 to 06.04.1963 and that by another entry dt 23.03.64, he was informed that his request for extension of the period of extraordinary leave had been turned down. Thereafter, by an entry dated 01.05.64 it has noted that his resignation had been accepted with effect from 07.04.1962. From the said entries they came to the conclusion that the applicant had not informed the Zilla Parishad School Authorities about his joining Railway Service on 12.04.1962 till 01.05.1964 nor did he inform the Railway administration about his service under the State Government till after he had retired from service. The Respondent have submitted that for suppression of the material information this O.A. is liable to be rejected.

4. We have heard the I.d. Counsel for the rival parties and have also perused the records placed before us.

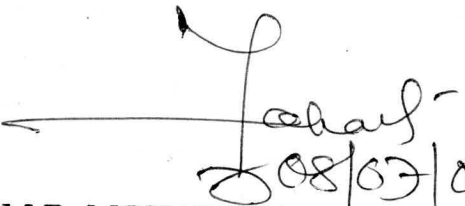
15

5. The short point to be answered in this O.A. is whether the applicant is entitled to count the period when he worked as Assistant Teacher in Zilla Parishad School, Srikakulam for the purpose of pension. It is true that relevant pension rule under the Railway Pension Rules permits counting of past service in State Government for the purpose of pension under Central Government. The Respondents have supplied copy of Estt. Serial No.267/82 (Annexure R-1) to this effect. The Respondents had also examined the case of the applicant in terms of the conditions laid down in this Establishment Serial. They had also informed him more than once that he should be able to fulfill the conditions laid down in the Government order as extracted in the Establishment Serial. No. 267/82 they would favourably consider his claim. The Respondents in their counter very sharply pointed out the shortcomings in the case of the applicant. From the perusal of the service records of the applicant as maintained by the Zilla Parishada School it reveals that even after joining the Railways as Assistant Teacher, he continued with his job in the Zilla Parishad School by taking leave without pay from 07.04.1962 to 06.04.1963. It was only after his request for extension of extraordinary leave was refused he submitted his resignation with retrospective effect i.e. from 07.04.1962. We are surprised that a teacher should have resorted to this type of unusual behaviour amounting to misconduct. As the applicant had resorted to supersession of material facts and he had suppressed the information about his past service from the Respondents till after



46

his retirement we are of the view that the applicant is devoid of any morale standing to seek any relief from this Court. His behaviour has been manifestly bad in law and lacks in ethics. For such a reprehensible act, he cannot go scot free. Accordingly, we order that the applicant shall pay Rs.2,000/- as cost within a period of 120 days.


(M.R. MOHANTY)
MEMBER (JUDICIAL)


(B.N. SOM)
VICE-CHAIRMAN

CAT/CTC
Kalpcswar