

Central Administrative Tribunal
Calcutta Bench

OA No.2 of 1996

Dt: 6-4-98

Present : Hon'ble ~~Mr.~~ D. Purkayastha, Member(Judicial)

Sankari Prasad Banerjee

..... Applicant

Vs.

Union of India & Ors.

..... Respondents

For the Applicant : Mr. B. Chatterjee, LD. Advocate

For the Respondents : Mr. S.P. Kar, LD. Advocate

Heard on: 6-4-98

Date of Judgement:

6.4.98

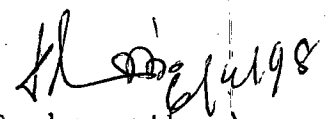
ORDER

The question before me is whether the applicant is entitled to get past service benefit due to resignation tendered by him from his parent department. According to the application he joined in the temporary post of clerk at Meerut on 11-7-42 and then he was transferred to the Accountant General, Orissa in the post of temporary clerk. Thereafter, he was on deputation to the State Trading Corporation w.e.f. 1-6-56 as an Assistant, where the applicant was promoted as an Accountant w.e.f. 24.10.57 and continued to hold the same post in the same capacity till the date of applicant's reversion i.e. on 29-9-62 from foreign service. In the meantime the applicant resigned from his permanent post in the office of the Accountant General, Orissa for a better employment in a Government of India Undertaking and the applicant's resignation was accepted w.e.f. 30-9-62 after rendering approved service for more than 20 years i.e. 11-7-42 to 30.9.62. The applicant states that during the applicant's foreign service on deputation, foreign service contribution was paid by the applicant's foreign employer regularly from month to month. So, according to the applicant, he is entitled to get

retirement benefit in terms of Controller of Auditor General's letter No.927/NGE.III/15-76-II dated 10-5-78 for the period w.e.f. 25.4.48 to 30.9.62. The applicant made several representations to the authority but to no effect. Hence, he filed this case. The respondent contested the case by filing written statement stating inter-alia that the application is not maintainable and cannot get any relief in view of the facts that the applicant tendered his resignation from Govt. service on 20-9-62 and the resignation was accepted w.e.f. 30-9-62 as an unconditional resignation. The applicant got himself relieved from the State Trading Corporation on the afternoon of 29-9-62 with instruction to report for duties to the Accountant General, Orissa after availing the usual joining time vide office order dated 29-9-62 of the State Trading Corporation of India Ltd., Calcutta (NEC), Ranchi on 20.10.62 as A.O. and permanently absorbed in that said Public Sector Undertaking w.e.f. 20.10.62. The applicant took up the new employment in Heavy Engineering Corporation w.e.f. 20.10.62 after a break of 20 days. Thereby the applicant is not entitled to get any benefit as claimed for. Id. Advocate Mr. Chatterjee, appearing on behalf of the applicant, submits that resignation tendered by the applicant is a technical one, thereby the applicant is entitled to get pension. On the contrary Id. Advocate Mr. Kar, appearing on behalf of the respondents, submits that since the subsequent employment in the NEC was obtained by the applicant without approval of the Department concerned, thereby the said resignation cannot be stated a technical one and cannot be deemed to be retained in parent service for the purpose of pension. I have considered the submissions of both the parties and I have gone through the Annexure 'F' dated 10th May, 1978 on the subject "Forwarding of application of Central Govt. servants for posts in Public Sector Undertaking - Grant of retirement benefits to those Government Servants who apply on their own volition". From the said circular it is found that normally a Govt. servant quitting service on voluntary resignation will not be entitled to pension.

He will be entitled to pension on resignation in certain circumstances i.e. when a Govt. servant, who is selected for a post in Central Public Sector Enterprise or Central Autonomous Body, will be released only after obtaining and accepting his resignation from Govt. servant. Such resignation will not entail for future service for the purpose of retirement/terminal benefits if he applies through proper channel. In such a case the Govt. servant shall be deemed to have retired from service from the date of such resignation and he will be eligible to receive all retirement and terminal benefits as admissible under the relevant rules applicable to him, in his parent organisation.

2. Admittedly the applicant did not apply through proper channel for the purpose of appointment in ENC in the year 1990. Since he did not apply through proper channel and he resigned from the post on his own ^{and not for Public interest,} volition, thereby he is not entitled to get any benefit as per circular dated 12-5-96 as relied upon by the applicant. The said circular does not confer any right upon him to get benefit of pension for his voluntary resignation. Thereby the application is devoid of merit and liable to be dismissed. Accordingly, the application is dismissed awarding no costs.


(D. Purkayastha)
Member (J)