

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

No. O.A. 142 of 1996

Date of order : 4.12.2001

Present : Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman
Hon'ble Mr. S. Biswas, Administrative Member

HIMANGSHU KR. ADHIKARY

VS.

UNION OF INDIA & ORS.

For the applicant : Mr. S.K. Dutta, counsel
Mr. T.K. Biswas, counsel

For the respondents : Mr. S.N. Das, counsel

O R D E R

This O.A. has been filed by the applicant for direction to the respondents to grant him prorata pension/gratuity. The applicant was initially appointed as a Beldar in the C.P.W.D. under the respondents. By Office order dated 9.8.73 he was transferred to International Airport Authority of India, Dum Dum on deputation with effect from 16.8.73(F.N.). The applicant opted for permanent absorption in the International Airport Authority of India and he was absorbed accordingly in that department w.e.f. 1.9.77 by memo dated 13.9.79. The Executive Engineer of the Stores-Cum-Aviation Division, C.P.W.D., Calcutta intimated the Pay and Accounts Officer of C.P.W.D., Calcutta to issue the admissibility certificate/authority regarding grant of his terminal gratuity. The concerned authority issued

the admissibility certificate regarding grant of terminal gratuity to the applicant. Thereafter on 29.5.81 an Office Memo was issued by the Executive Engineer, Stores-Cum-Aviation Division, CPWD, Calcutta-20 by which some employees of the Work Charged Establishment of the CPWD were declared as confirmed as per the recommendation of the D.P.C in the post of Beldar. The applicant was also confirmed in the post of Beldar alongwith others in the scale of Rs. 196-3-220-EB-3-232/- . On the other hand, the International Airport Authority of India also issued an order declaring the names of the employees who have been declared as confirmed by the CPWD and mentioned that they were eligible for Pension/DCR Gratuity instead of terminal gratuity. In that list the name of the applicant appeared. By that order, the eligible candidates were advised to submit their applications for pension and other connected papers for necessary action as desired by the CPWD . Thereafter, the applicant submitted a representation before the authority for finalising his pension case without delay. The matter was referred to the Pay and Accounts Officer of CPWD by the department. The Pay and Accounts Officer of CPWD by a communication dated 22.9.1992 intimated the Director General of Works C.P.W.D., Nirman Bhawan, New Delhi that the cases of the employees of the CPWD who were absorbed in the IAAI can be finalised after taking into consideration the terms and conditions regarding permanent absorption of the ex-CPWD employees to IAAI, Calcutta and for that purpose he requested the Director General of Works,

CPWD, New Delhi to send immediately a copy of the same (Annexure A-14)

After that by another communication dated 3.5.93 the Pay and Accounts Officer of CPWD, Calcutta intimated the concerned authority that as per the terms and conditions of permanent absorption of CPWD employees in IAAI, the employees who have minimum not completed service of 10 years in the previous department are only entitled to service gratuity in lieu of pension and accordingly their dues have been paid by the office. The applicant was also sent a copy of the letter. Being aggrieved by such communication, the applicant moved this O.A. before this Tribunal claiming pensionary benefits.

3. Respondent Nos. 1, 2 and 3 of this O.A. have filed written statement denying and disputing the claims of the applicant. Be it noted here that the IAAI is not a party in this O.A. The respondents contended that as per the CCS(Pension) Rules, the work charged staff who rendered less than 10 years' service (continuous) were not entitled for pension. However, if the employees who have not completed 10 (ten) years' continuous service under the respondents and have not opted for absorption under another employee, they are entitled for prorata pension if they retire from service on attaining the age of superannuation. In this case, the applicant had not completed 10 years' service and had not attained the age of superannuation. Furthermore, he opted for permanent absorption in IAAI. The respondents have further pleaded in their reply that the permanent work charged employees who have put in less

than 10 years qualifying service are entitled to service gratuity and DCRG only and those who have put in 10 years or more qualifying service are entitled to pension and DCRG. According to the respondents, the records and the applicant's own admission shows that he rendered service only for 5 years and 23 days in the CPWD department and therefore, only the service gratuity and DCRG are payable to the applicant.

4. We have heard the ld. counsel for both sides and perused the records.

5. Ld. counsel Mr. S.K. Dutta appearing on behalf of the applicant referred to the communications dated 29.6.81 and 23.2.82 and stated that as per communications, applicant is entitled for pensionary benefits.

6. On the other hand, Mr. S.N. Das ld. counsel for the respondents stated that as the applicant had not completed 10 years service in the CPWD and opted for absorption in IAAI, he is not entitled for pension as per the relevant rules, therefore, the application is liable to be dismissed as being devoid of any merit and being barred by the law of limitation also.

7. We have carefully considered the submissions of the ld. counsel for the parties. We find that the respondents were justified to refuse the applicant the pensionary benefits as per the relevant rules as he did not serve the CPWD for the minimum period of 10 years and opted for absorption in the IAAI.