

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH: JODHPUR.

O.A. No.240/97

Date of Order: 31.8.1998

Jagdish Prasad Saxena s/o Late Shri Jagdamba Prasad Saxena, r/o 106/92, Vijay Path, Ashok Marg, Agarwal Farm, Jaipur-302020, retired as ad-hoc P.R.O., R.A.P.S., Anushakti, Distt: Chittorgarh.

... Applicant

VERSUS

1. Union of India through the Secretary, Department of Atomic Energy, Anushakti Bhawan, C.S.M. Marg, Mumbai-400039.
2. Project Director, Rajasthan Atomic Power Station (Unit 1 & 2), Post: Anushakti via Kota-323303.
3. Deputy Controller of Accounts, (PF & Pension Section), Principal Accounts Office, Department of Atomic Energy, C.S.M. Marg, Mumbai-400039.
4. Cadre Controlling Authority, Department of Atomic Energy, Anushakti Bhawan, C.S.M. Marg, Mumbai-400039.

... Respondents

Mr. V.D. Vyas, Counsel for the applicant.

Mr. Arun Bhansali, Counsel for the respondent No.2.

None present on behalf of the respondents No. 1, 3 & 4.

CORAM:

Hon'ble Mr. A.K. Misra, Judicial Member

Hon'ble Mr. Gopal Singh, Administrative Member

O R D E R

Per Hon'ble Mr. Gopal Singh

Applicant, Jagdish Prasad Saxena, has filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for setting aside the impugned orders dated 19.3.1997 (Annx. A/1) and dated 5.9.1996 (Annx. A/1-A) and for

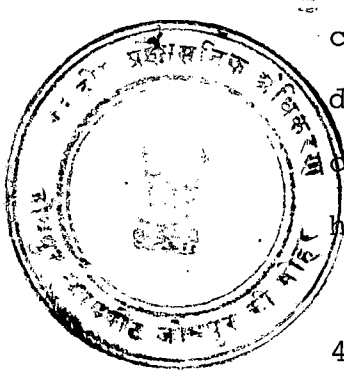
Gopal Singh

issuing a direction to the respondents to regularise the service of the applicant on the post of Public Relation Officer (for short, PRO) w.e.f. 19.8.1989 and also to refix the pension of the applicant with reference to the pay he had drawn as PRO.

2. Applicant's case is that he had joined Rajasthan Atomic Power Station, Department of Atomic Energy as UDC on 27.5.1968. That he was promoted as Welfare Assistant on 4.8.1978 and that he was appointed as PRO on ad hoc basis w.e.f. 19.8.1989 with the charge allowance of Rs.100/- per month. Subsequently he was allowed to officiate as PRO on ad hoc basis on the initial pay of Rs.2000/- in the pay scale of 2000-3200 w.e.f. 1.7.1991. That the applicant retired on superannuation on 30.6.1996 from the post of PRO. At the time of retirement the applicant was officiating on the post of PRO in the scale of 2000-3200. The grievance of the applicant is that his pension has been fixed with reference to his substantive pay of Rs.2000/- in the scale of 1400-2300, though he has officiated in the higher post of PRO in the scale of 2000-3200 for about seven years. Having failed to get the relief at the hands of the respondents, the applicant has approached this Tribunal through this O.A.

3. Notices were issued to the respondents and they have contested the application on the ground that the benefit of pay drawn in the scale of the post of PRO for the purpose of pension calculation cannot be extended to the applicant since he was holding the post on ad hoc basis.

4. We have heard the learned counsel for the parties and perused the records of the case.


Compal Singh

5. The learned counsel for the applicant has also brought to our notice a letter dated 29th January, 1998 from Nuclear Power Corporation, address to Vice Chairman, JCC Staff Side, RAPS, Kota. Annexure to this letter contains clarifications on various points raised by JCC (Staff Side) on Brown Book vide their letter dated 17.01.1998 from Vice Chairman, JCC (Staff Side) to Chairman & Managing Director, NPCIL. Para 2.1 of the above annexure reads as under:

"2.1 All the promotions acquired while on deputation to NPCIL shall be reckoned for the purpose of determining the pensionary benefits irrespective of the fact whether the promotion is regular or adhoc as the Pension Rule do not distinguish between regular promotion and adhoc promotion. Therefore, the emoluments/average emoluments drawn by the employee at the time of settlement shall be counted for the purpose of calculation of retirement benefits."

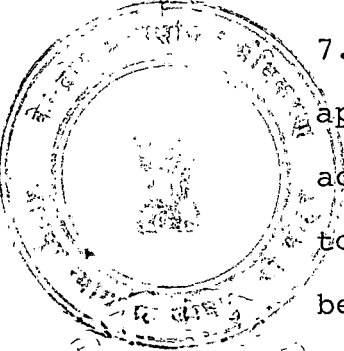
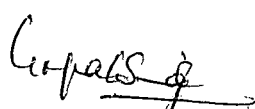
It is also seen that CCS (Pension) Rules do not differentiate between pay on ad hoc or substantive appointment for the purpose of calculation of pension. Pay drawn during the last 10 months of the service of an employee is to be taken into account for the purpose of calculation pensionary benefits. The learned counsel for the respondents could not show us any rules/instructions in support of his claim that pay drawn in ad hoc appointment/promotion would not count for calculation of pension. In our opinion the applicant is entitled to get the pension fixed as discussed above taking into account pay drawn by him during last 10 months of his service.

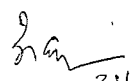
Carpal Singh

6. The applicant had also prayed for regularisation on the post of PRO w.e.f. 19.8.1989. We have considered the prayer. Since the applicant has retired on superannuation on 20.6.1996, therefore, regularisation of services of the applicant on the post of PRO at this stage would hardly make any difference as regards his pension and pensionary benefits. We, therefore, do not consider it necessary to deliberate upon the same.

7. In the light of what we have discussed above, the application deserves to be accepted in part. The O.A. is accordingly partly allowed with the direction to the respondents to calculate and pay to the applicant the pension and pensionary benefits on the pay drawn by him in the scale 2000-3200 at the time of his retirement within a period of three months from the date of communication of this order.

8. Parties are left to bear their own costs..



(Gopal Singh)
Administrative Member

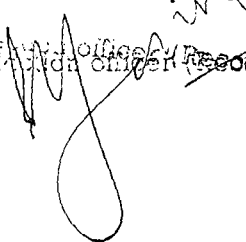

31/8/98
(A.K. Misra)
Judicial Member

Aviator/

4/19/98

2/19/98
Road City

Part II and III destroyed
in my presence on 3.2.2026
under the supervision of
section officer (1) as per
order dated 28/2/2026

Section Officer (Records)


file recd
from photocopier
on 2/9/98