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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR
.....

Date of Order: 17.09.2001

O.A.NO. 269/1997

Jawahar Lal Sharma, Ex.Principal, Northern Railway Inter College Tundla (U.P.), Resident of House No. 1-G/9 Housing Board, Bhagat Ki Kothi Extension Scheme, Jodhpur.

.....Applicant.

versus

1. Union of India through General Manager, Northern Railway, Headquarters Office, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Allahabad.
3. Senior Divisional Personnel Officer, Northern Railway, Allahabad.
4. Senior Divisional Accounts Officer, Northern Railway, Allahabad.

Principal, Northern Railway Inter College, Tundla (UP).

.....Respondents.

CORAM:

HON'BLE MR.A.K.MISRA, JUDICIAL MEMBER

Mr. M.S.Singhvi, Counsel for the applicant.

Mr.S.S.Vyas, Counsel for the respondents.

ORDER

BY THE COURT :

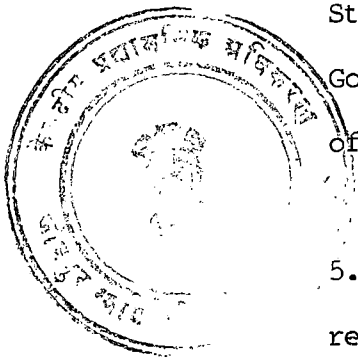
The applicant had filed this application under section 19 of the Administrative Tribunals Act, 1985, with the following reliefs :

- "(i) That by an appropriate writ, order or direction, the respondents be directed to extend the benefit of applicant's past services while calculating the pensionary benefits and consequential benefits;
 - (ii) that by an appropriate writ order or direction grant any other relief which is considered just and proper in the facts and circumstances of the case.
 - (iii) the cost of this application may also kindly be allowed to the applicant."
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2. Notice of the O.A. was given to the respondents who had filed their reply to which a rejoinder was filed by the applicant. The respondents filed reply to the rejoinder. Subsequently, two additional affidavits alongwith documents were filed by the applicant.

3. I have heard the learned counsel for the parties and have gone through the case file.

4. The grievance of the applicant is that his past services which he had rendered to Kishori Raman Inter College, Mathura (for short "KRIC Mathura"), were not included in the qualifying service by the respondents and consequently, applicant is continuously drawing lesser pension ~~xxx~~ /than his entitlement. The contention of the respondents in this regard is that the said college was not an autonomous body under the State Government, as the same was not aided more than 50% by the State Government. The applicant, therefore, is not entitled to claim benefit of the past services.



5. In order to appreciate the real controversy, facts in brief are required to be narrated.

6. It is alleged by the applicant that he was appointed as Lecturer in History and Civics in KRIC, Mathura in the year 1953. The applicant had rendered services to the said college with effect from 17.8.1953 to 7.7.1963. While he was in the service of the said college, he applied for the government job on no objection certificate having been issued by the college authorities. Thereafter, the applicant was appointed in the Northern Railway Inter College, Tundla (U.P.) with effect from 8.7.1963. The applicant, eventually, retired on superannuation with effect from 30.6.1989. It is stated by the applicant that while he was in employment of the Railway, he represented to the competent authority for counting the past services for pensionary purposes and

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continuously persued the matter thereafter but the services of the applicant rendered in KRIC, Mathura, were not included by the respondents, hence this O.A. The applicant had challenged the action of the respondents on the ground that respondents erred in not treating the said college as autonomous body whereas, applicant's contemporaries serving in similar colleges were extended the benefit of the past services rendered to such colleges. The respondents had given the applicant a discriminatory treatment. The applicant is entitled to get his pension revised in terms of his claim.

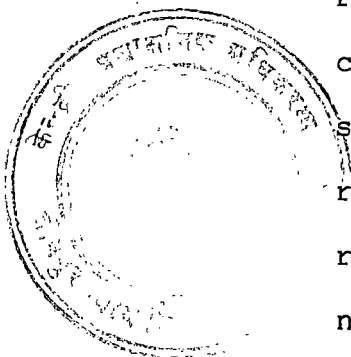
7. On the other hand, respondents have stated that the claim of the applicant is highly belated. Applicant retired way-back in June 1989 whereas, he has filed this O.A. in the year 1997, therefore, the O.A. deserves to be dismissed on this ground alone. It is also stated by the respondents that the service rendered by the applicant to KRIC, Mathura, are not counted for pensionary benefits as the said college was not an autonomous body under the U.P.State. The claim of the applicant was disposed of by the respondents through Annex.R/1 dated 13.9.1993 and consequently, repeated representations to the departmental authorities in this regard, do not help the applicant. The applicant had also not been able to produce any document in support of the fact that the said KRIC, Mathura, was an autonomous body under the U.P.State, therefore, the applicant is not entitled to any relief. The applicant has not been discriminated by the respondents as alleged by him. The cases of the persons named by the applicant in the O.A., were on different footings. Therefore, the applicant is not entitled to claim any benefit on that count.

8. Both the learned counsel for the parties had developed their arguments on the lines of their pleadings which I have duly considered.

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9. First of all, the point relating to limitation is required to be disposed of. From the record, it appears that applicant has been represented in this regard even before he had retired. Thereafter, he has been representing continuously for inclusion of his past services for purposes of pensionary benefits. The letter Annex.R/1 dated 13.9.1993 by which the representation of the applicant is said to have been disposed of, is in fact a letter written from the Head Office of the Northern Railway to the Secretary, Railway Board, stating parawise comments but this letter cannot be categorised as a letter disposing of the claim of the applicant. In this letter, the concerned authority had communicated to the Secretary, Railway Board that services rendered by the applicant are not countable for pensionary benefits as the said college was not an autonomous body. Such recommendations are only factual comments and cannot be treated as an order disposing of the representation. Disposal of representation of the applicant in this regard should have been positive and the decision ought to have been communicated to the applicant. But, there is no letter on record to show that any such decision was communicated to the applicant by the respondents. Therefore, the contention of the respondents that the representation of the applicant was disposed of way back in 1993, does not carry any substance. By this letter, it appears that the matter relating to counting the past services was under consideration of the higher authorities. Once the action of the respondents gives an impression to the applicant that his claim is under consideration then by no stretch of imagination it can be believed that the matter stood disposed of by the respondents. From various letters on record, it appears that information was being sought by the respondents from the said KRIC, Mathura and the said college replied various queries of the respondents, through their communication. In view of these facts, the claim of the applicant cannot be said to be belated, therefore, the contention of the respondents regarding limitation, deserves to be rejected.

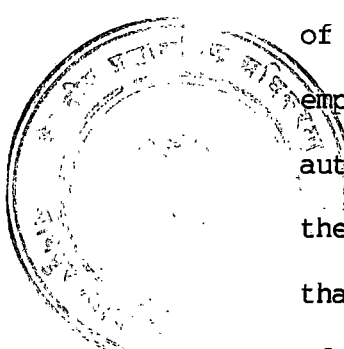


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10. During the pendency of the present O.A. the General Manager,

Northern Railway, was informed by the Principal of the said college that the college was in receipt of more than 50% Grant-in-Aid. This letter was duly counter-signed by the District Inspector of Schools. Earlier, a duly counter-signed certificate was issued by the said college in the year 1988 stating therein that the applicant had rendered service from 17.8.1953 to 7.7.1963 in the said college and was permitted to join the government job by the college management committee. The applicant's contribution of P.F. was paid to him and the staff and teachers of the said institution, are governed by the U.P. Government Payment of Wages and Salary Act, 1971. If this certificate dated 24.7.1988 (Annex.A/2) is read alongwith the letter dated 7.10.1999 (Annex.A/18), then the conclusion would be that the said college was a U.P. Government Aided Institution and was in receipt of more than 50% Grant-in-Aid. As per the Printed Serial No. 8955 the employees of the State autonomous bodies when absorbed by the central autonomous bodies or departments then their cases would be governed by the provisions of the said P.S. In this case, it cannot be doubted that the said KRIC, Mathura, was an aided institution and was in receipt of more than 50% grant-in-aid. Moreover, as per the letter Annex.A/18, the proportionate pension liabilities also admissible as per the extent rule. Had the college not been an aided college, it would not be having any provision regarding proportionate pension liability. The two persons named in the O.A. had also rendered their services in such aided colleges which were in receipt of more than 50% grant-in-aid. The case of the applicant cannot be treated differently than the cases of those persons. The respondents have not been able to place on record any material to high-light the difference of facts in respect of those two named employees i.e. Shri Laxmi Narain Sharma and Shri Govind Ram, whose past services were counted by the respondents for pensionary purposes in comparison to the applicant's case. Therefore, simply saying that those two cases were different than the applicant's case, cannot help the applicant. As stated above, there is no reason to

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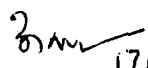
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doubt the letter dated 7.10.1999 (Annex.A/18) signed by the Principal of the said college and counter-signed by the District Inspector of Schools, Mathura, which was addressed to the General Manager, Northern Railway and, therefore, in my opinion, the said college was an autonomous body under the State Government having proportionate pension liability and, therefore, the applicant is entitled for getting his past services counted for pensionary benefits for which he has continuously been pressing his claim with the authorities.

11. The Original Application in my opinion, deserves to be accepted accordingly.

12. The O.A. is, therefore, accepted. The respondents are directed to count the past services of the applicant rendered by him to the KRIC, Mathura, from 17.8.1953 to 7.7.1963, for the purpose of pension and pensionary benefits. The respondents are further directed to re-calculate applicant's pension and pensionary benefits and, pay the arrears accordingly as per the revised calculations, within a period of three months from the date of communication of this order.

As per the above directions of this Tribunal, if the payment of arrears is not made to the applicant by the respondents, then the applicant shall be entitled to interest on such arrears at the rate of 9% per annum from the date of institution of the O.A. i.e. 29.7.1997 till the payment is made. The parties are left to bear their own costs.


17/9/2001
(A.K.MISRA)
Judicial Member

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