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In the Central Administrative Tribunal, Jodhpur Bench,
Jodhpur

Date of order : 12.9.2000

O.A.No.72/99

Hem Chand Jain S/o Shri Chand Mal Ji Jain age 54 years, by
Caste Jain, R/o Quarter No. 1, Kendriya Vidyalaya No.1 (AF)
Jodhpur (PGT K.V.1 (AF) Jodhpur-342011).

..... Applicant.

vs.

1. Union of India through the Secretary, Ministry of
H.R.D., Government of India, Secretariate, New Delhi.
2. The Commissioner, Kendriya Vidyalaya Sangthan, 18,
Institutional Area, Shahid Jeet Singh Marg, New
Delhi-110 016.
3. Assistant Commissioner, Kendriya Vidyalaya Sangthan,
92, Gandhi Nagar Marg, Bajaj Nagar, Jaipur-302015.
4. Principal, Kendriya Vidyalaya No.1 (Air Force),
Jodhpur 342 011.

..... Respondents.

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CORAM :

Hon'ble Mr.A.K.Misra, Judicial Member
Hon'ble Mr.Gopal Singh, Administrative Member

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Mr.R.K.Shah, Counsel for the applicant.

Mr.U.S.Shargava, Counsel for the respondents No. 2,3 and 4.

None is present for respondent No.1.

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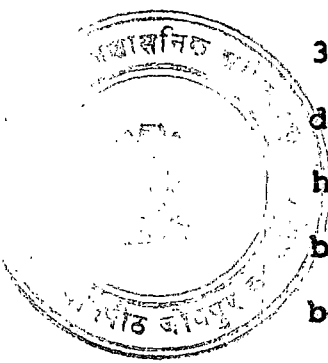
Per Hon'ble Mr.Gopal Singh, Administrative Member :

In this Application, under Section 19 of the Adminis-
trative Tribunals Act, 1985, the applicant, Hem Chand Jain,
has prayed for a direction to the respondents to withdraw the
impugned order dated 10.7.1998 (Annex.A/1) and to count the
applicant's services from 19.11.70 to 4.8.78 rendered in the
State Government of Rajasthan, for pensionary benefits.

Gopal Singh

2. In terms of impugned order dated 10.7.98 (Annex.A/1) the applicant was not allowed the benefit of past service rendered with the State Government of Rajasthan, on the ground that he had not given any option for counting of past service within the stipulated time i.e. 31.12.90. By way of our interim direction dated 10.12.1999, it was ordered as under:-

"The learned counsel for the respondents submits that as per their reply in para 3 if the applicant furnishes all the required details to the Department, the case of the applicant could be considered and disposed of accordingly. In view of this, we direct the learned counsel for the applicant to furnish the required details and documents to the Department in support of the applicant's claim, within a period of one month from today and thereafter the Department should consider the claim of the applicant and disposed of the same according to the rules and as per the departmental guidelines within a further period of one month."



3. Consequently, the applicant had submitted the requisite details to the respondents and after due consideration, they have passed order dated 16.5.2000 (Annex.R/2), wherein, it has been held that the past service rendered by Shri H.C.Jain, can be counted in Kendriya Vidyalaya Sangathan only when the State Government of Rajasthan makes the payment of pro-rata pensionary benefits. In this connection, the learned counsel for the applicant has brought to our notice judgement dated 25.7.97 passed in S.B.Civil Writ Petition No.1716/1994 by the Hon'ble Rajasthan High Court, Jodhpur. In this judgement, past service rendered by the applicant therein, in the State Government of Rajasthan, as also military service, was ordered to be counted for the purpose of pensionary benefits. We are of the view that whether the State Government agrees to pay pro-rata pensionary benefits or not, the applicant cannot be deprived of the benefit of his past service rendered with the State Government. It is for the respondents to pursue the matter with the State Government for payment of pro-rata pensionary benefit.

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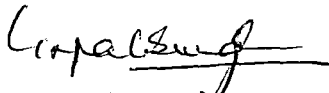
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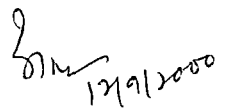
It is between the two Governments to settle the issue and the applicant cannot be put to a loss on this count.

Accordingly, we pass the order as under :-

4. The O.A. is allowed. The respondents are directed to count the past service from 19.11.70 to 4.8.78, rendered by the applicant in the State Government of Rajasthan, as qualifying, for the purpose of pensionary benefits.

5. No order as to costs.


(GOPAL SINGH)
Adm. Member


(A.K. MISRA)
Judl. Member



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