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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH : JODHPUR

Date of order : 04-6-2001

1. O.A. No. 94/2001

with

2. M.A. No. 76/2001

S.D. Singh son of late Shri Mahesh Singh, by caste Singh, aged about 71 years, resident of 33, Subhash Nagar, Jodhpur, retired Principal Scientist, Central Arid Zone Research Institute, Jodhpur.

... Applicant.

versus



1. The Union of India through the Director General, Indian Council of Agricultural Research, Krishi Bhawan, New Delhi.
2. The Director, Central Arid Zone Research Institute (CAZRI), Jodhpur.
3. The Senior Administrative Officer, CAZRI, Jodhpur.

... Respondents.

Mr. Manoj Bhandari, Counsel for the applicant.

CORAM:

Hon'ble Mr. Justice B.S. Raikote, Vice Chairman

BY THE COURT:

This application is filed for a direction to the respondents to count the past services of 11 years and 22 days rendered by the applicant in the Janta Vedic College, Baraut, Meerut (affiliated to Meerut University), for the purpose of grant of pension and other retiral benefits. The applicant has also sought for quashing the order dated 30.5.88 (Annexure A/1) and also the order dated 6.7.1999 (Annexure A/6).

2. The applicant contended that he was initially appointed on 7.11.56 as an employee of Janta Vedic Post Graduate College (J.V. College, for

short), Baraut, Meerut, which was a College affiliated to Meerut University, and governed under the CPF Scheme. Later, he was offered an appointment by Indian Council of Agricultural Research as Agronomist at Central Arid Zone Research Institute (CAZRI, for short), Jodhpur, vide letter dated 28.10.1967, and accordingly, the applicant joined in the said Institute on 30.11.1967, and after attaining the age of superannuation, he retired with effect from 31.07.89 as Principal Scientist in CAZRI. He stated that he was given 5 years of qualifying service under Rule 30 of the Central Civil Services (Pension) Rules, 1972, (Pension Rules, for short), and accordingly, his pension has been fixed. But his past services of 11 years and 22 days rendered by him in the J.V. College, affiliated to Meerut University, has not been taken into account before fixing his pension. The applicant contended that it is the duty of the respondents to do the same. It is, in those circumstances, he made a representation dated 17.02.98 (Annexure A/4) to the respondent No. 2. He contended that the respondents have not given any reply to said representation. But in fact, the respondents have issued a letter dated 28/30.5.98, rejecting the claim of the applicant. Thereafter, the applicant made another representation on 16.06.99, and on the basis of the later representation, an endorsement was issued to the applicant vide letter dated 6.7.99 (Annexure A/6). Though the present application is barred by time, the applicant has filed a separate M.A. for condonation of delay.

3. Heard the learned counsel for the applicant.

4. Learned counsel appearing for the applicant contended that under the Central Government O.M. No. 28-10/84-Pension Unit dated 29th August, 1984, extracted in Swamy's Pension Compilation incorporating CCS Pension Rules (14th edition - 1998) at page 415, the applicant is entitled for counting his past services for the purpose of fixing his pension. The learned counsel has argued that in case of transfer of employees from

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Central Government to Central Autonomous Body or vice versa and the employees of the Central autonomous body moving to another Central autonomous body, their past services may be taken into account for according retirement benefits in accordance with the provisions of O.M. No. 26 (18) E.V(B)/75, dated 8th April, 1976 (Para 3(b) (i) and (ii) of Appendix 12. He further submitted that the J.V. College in which the applicant was working, had the C.P.F. Scheme and vide Annexure A/3 dated 17.4.98, it is clear that the applicant has contributed a sum of Rs. 2154.69 towards CPF, and the College share of the CPF contribution is Rs. 2154.69, i.e., in all a sum of Rs. 4,309.38, as per the certificate issued by the said College. In my opinion, this contention of the applicant is not tenable for the simple reason that the said J.V. College, Baraut (Meerut), cannot be considered as Central Autonomous Body. But the contention of the applicant is that the same was affiliated to Meerut University, and the Meerut University is a Central autonomous body, therefore, the said O.M. applies to the present case. But this contention of the applicant is totally unfounded. Meerut University is an autonomous body, but it cannot be said to be a Central autonomous body under the control of the Government of India. At any rate, the applicant was working from 7.11.56 to 29.11.67 in J.V. College, Baraut (Meerut) as Assistant Professor for about 11 years 22 days. But that J.V. College cannot be considered to be a Central autonomous body under the control of the Government of India by any stretch of imagination. Its affiliation to the Meerut University makes little difference in the nature of its composition. It is not the contention of the applicant that the J.V. College was controlled by the Central Government, and therefore, his contention that the said O.M. No. 28-10/84-Pension Unit dated 29.08.88 applies to the facts of the present case, is totally misconceived.

5. As per the impugned order at Annexure A/1 dated 28/30.5.98, it is clear that for taking benefit of any such Scheme, i.e., Pension Scheme, the place of CPF Scheme, an option was to be exercised within one year

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the basis of O.M. No. F.28-10/84-Pension Unit dated 29.08.84 issued by the Department of Personnel and Adm. Reforms, Government of India, received under ICAR endorsement No. 12(7)/84-Cdn-2 dated 24.09.84, circulated by CAZRI. But the applicant has not exercised the option within one year. The impugned order Annexure A/1 dated 28/30.5.98 also states that the applicant has made such a representation after 8 years of his retirement, and he has already been sanctioned the benefit of 5 years of added service on superannuation pension, as per Rule 30 of C.C.S. (Pension) Rules, 1972. Accordingly, the applicant's case for counting of past service rendered by him in the J.V. College, Baraut (Meerut), was not accepted by the department, and in my opinion, they correctly did so. As I have already stated above, the Government of India O.M. No. 28/10/84 dated 29.08.84, does not apply to the facts of the case, since the J.V. College, in which the applicant was working about 11 years 22 days, is not a College controlled by the Central Government, nor it is an autonomous body. Therefore, I do not find any merit in the application. As stated in the impugned order at Annexure A/1 dated 28/30.5.98, he made a representation dated 17.02.98 (Annexure A/4) after 8 years of his retirement and after receiving the benefit of 5 years added service. From this, it follows that the claim, if any, for counting of past services rendered by him, atleast would have arisen on the date of his retirement on 31.07.89. If that is so, this application is barred by limitation in terms of Section 21 of the Administrative Tribunals Act, 1985, under which the limitation of one year is prescribed. But to my surprise, I find that his case was rejected on 28/30.5.98 vide Annexure A/1. Even from this order, he has not come to this Tribunal within one year on or before 30.05.99, whereas he filed the present application only on 20.04.2001. Even from the order dated 28/30.05.1998, this application is barred by time. But the case of the applicant is that he has filed another representation dated 16.6.99 on which, an endorsement dated 6.7.99 (Annexure A/6) was issued to him. From reading of Annexure A/6, I find that this letter specifically stated that the applicant's case was

considered earlier in response to his letter dated 17.02.98, and appropriate order has been issued by the CAZRI on 30.05.98. From this, it follows that he had filed another representation dated 16.06.99. Hon'ble the Suprme Court in 1999 SCC (L&S) 251 (Union of India & Anr. vs. S.S. Kothiyal & Ors.), had declared the law that once the cause of action stood or barred by time, filing of repeated representation does not extend / save limitation. However, the applicant has filed a separate application for condonation of delay in M.A. No. 76/2001, contending that after filing his representation dated 17.02.98, he has not received any communication from the department. Hence, he submitted a reminder on 16.06.99, on which he has received a communication dated 6.7.99, endorsing a copy of earlier decision vide leter dated 30.05.98. Therefore, a lawyer's notice dated 23.03.2001 was sent, but the same has not been replied within a period of 15 days. Therefore, he filed the present application, and it is a fit case for condonation of delay, since the applicant's right in terms of Central Government rules, stands violated. But in my view, this explanation does not constitute sufficient cause for condonation of delay. As I have already stated above, the applicant has retired in the year 1989, and for his alleged grievance that his past service was not taken into account by fixing his pension in the year 1989, he should have appraoched this Tribunal within one year. In these circumstances, no cause much less a sufficient cause is shown for condonation of delay of nearly 12 years, after his retirement. Therefore, even this M.A. has no merit.

6. For the above reasons, I pass the order as under:-

The O.A. No. 94/2001 is dismissed in limine both on the basis of limitation and also on merits. Consequently, the M.A. No. 76/2001 also stands dismissed."

(Justice B.S. Raikote
Vice Chairman