

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

**O.A.No.510/2007
Dated the 22nd day of October, 2008**

CORAM:

**HON'BLE MR.GEORGE PARACKEN, JUDICIAL MEMBER
HON'BLE MS.K.NOORJEHAN, ADMINISTRATIVE MEMBER**

Mary John
Staff Nurse(Rtd),
Ministry of Labour and Employment,
Government of India
Residing at Plathara House,
S.H.M. P.O., Kottayam. ... Applicant.

By Advocate Ms.Liji J Vadakedom

V/s.

- 1 The Welfare Commissioner,
Ministry of Labour and Employment,
Government of India,
Ministry of Labour and Employment,
Allahabad
- 2 Dy.Welfare Commissioner,
Office of the Welfare and Cess Commissioner,
Government of India,
Ministry of Labour and Employment,
Allahabad- 211 002.
- 3 Family Planning Officer,
Mother and Child Health Department,
Department of Health,
Uttar Pradesh. ... Respondents

By Advocate Mr.Sunil Jose ACGSC (R 1&2)



This application having been heard on 22nd October, 2008, the Tribunal on the same day delivered the following

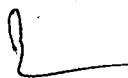
(ORDER)

Hon'ble Mr. George Paracken, Judicial Member

The applicant has filed this OA seeking a direction to the 1st and 2nd respondents to count the past service rendered by her with the 3rd respondent during the period 1967 to 1979.

2 The brief facts stated by the applicant are that, prior to her appointment with the 2nd respondent, she had served as A.N.M. with the 3rd respondent during the period from 1967 to 1979. She was appointed in the Office of the 2nd respondent in the year 1979 and she continued there till 2004 i.e. till her retirement on superannuation. She came to know that the past service rendered by her with the 3rd respondent was not counted for pensionary purpose only when her pension and other terminal benefits were actually settled by the 2nd respondent. She has, therefore, made the Annexure A-4 representation to the 2nd respondent stating that in terms of the Annexure A-1 appointment letter dated 1.3.1979, there was a clause to the effect that discharge certificate/no objection certificate/no demand certificate from the previous employer was to be produced by her at the time of joining and therefore, the Respondents 1 & 2 are now estopped from saying that she had not submitted a proper resignation letter.

3 Respondents in their reply has submitted that the applicant failed to fulfill the conditions for counting of previous service with the State Government of Uttar Pradesh for the purpose of pensionary benefits.



According to them, government servants claiming counting of temporary service under the State/Central government fall in following three categories as stated in Department of Personnel & A.R. Letter No. 3(20)/Pen.(A)79 dated 31.3.1982 (quoted below Rule No.14 of the Swamy's Pension Compilation incorporating Central Civil Services (Pension) Rules 1972).

- (1) Those who having been retrenched from the service of Central/State Governments secured on their own employment under State/Central Governments either with or without interruption between the date of retrenchment and date of new appointment.
- (2) Those who while holding temporary posts under Central/State Governments apply for posts under State/Central Governments through proper channel with proper permission of the administrative authority concerned.
- (3) Those who while holding temporary posts under Central/State Governments apply for posts under State/Central Government direct without the permission of the administrative authority concerned and resign their previous posts to join the new appointment under State/Central Governments."

As the applicant falls under the 3rd category, she is not entitled to count her previous service for pension. They have also submitted that her request for counting of period of previous service in State Government of U.P. was thoroughly examined in the light of existing Central Civil Services (Pension) Rules but the same was found to be not covered.

4 We have heard Ms.T.N.Binitha for Ms.Liji J Vadakedom, counsel for applicant and Mr.Sunil Jose, counsel for respondents. According to Rule 26(2) of the Central Civil Service (Pension) Rules 1972 "A resignation shall not entail forfeiture of past service if it has been submitted to take up, with proper permission, another appointment,



whether temporary or permanent, under the Government where service qualifies." Applicant has not produced any evidence to show that she had submitted the technical resignation from the service under the respondent no.3 before she has joined the service under respondent no.2. Moreover, from 1979 till she retired in 2004, she did not make a single representation to the 2nd respondent to count the past service rendered by her under the 3rd respondent. She had made a representation to count her past service only after she retired from service. Even, then, the respondents have examined the representation carefully but found that her request was not covered under the Rule.

5 In the above facts and circumstances, we do not find any merit in the contention of the applicant that the 1st respondent should have counted her past service rendered under 3rd respondent. The OA is accordingly dismissed. There shall be no orders as to costs.



K. NOORJEHAN
ADMINISTRATIVE MEMBER



GEORGE PARACKEN
JUDICIAL MEMBER

abp