

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH, PATNA

D.A. No. 464 of 1996

Date of order 26.5.1997

Hawaldar Singh, son of Late Ramekbal Singh, Ex-Peon, C.M.W.O., Government of India, Dhanbad, at present working as C.G.II, under Sr. Executive Engineer(C), E.C.L., Kalla, P.O. Kalla, District Burdwan.

.. Applicant

-versus-

1. The Union of India through Secretary, Ministry of Energy, Department of Coal, Shastry Bhawan, New Delhi.
2. Officer on Special Duty, Govt. of India, Ministry of Energy, Department of Coal, Kalayan Bhawan, Jagjivan Nagar, Dhanbad, Bihar.
3. Personnel Officer (Admn.), Department of Coal, Ministry of Energy, Govt. of India, Kalayan Bhawan, Jagjivan Nagar, Dhanbad, Bihar.
4. Regional Pay & Accounts Officer, Regional Pay & Accounts Office, Ministry of Energy (Department of Coal), P.O. Jagjivan Nagar, District Dhanbad.

.. Respondents

CORAM : Hon'ble Mr. Justice V.N. Mehrotra, Vice-Chairman

Counsel for the applicant .. Shri M.P. Dixit
Shri Ashok Kumar
Counsel for the respondents .. Shri S.C. Dubey

ORDER

Hon'ble Mr. Justice V.N. Mehrotra, V.C.:-

This O.A. has been filed under Section 19 of the Administrative Tribunals Act with the prayer that the order (Annexure-A/1) by which pension has been granted to the applicant with effect from ~~1.10.1996~~ be quashed and that the respondents be directed to pay pro-rata pensionary benefits to the applicant with effect from 1.10.1986.

2. The applicant has alleged that he joined as Peon in Coal Mines Labour Welfare Organisation ("CMLWO") on 1.4.1966 under the Ministry of Energy, Government of India, Dhanbad. He served in that Organisation till 30th September, 1986 when the said Organisation was abolished and was merged with Coal India Limited. It has been asserted that the applicant was confirmed in the year 1976-77 while he was working in CMLWO. It has been further asserted that in pursuance of order No. 11021/6/86 CSW dated 22.9.1986, all the Institutions of Coal Mines Welfare Organisation were transferred to the subsidiary Companies of CIL and SCCL from 1.10.1986. It is alleged that after the abolition of CMLWO, the applicant's services were transferred to ECL, a subsidiary of ~~Coal~~ India Limited. According to the applicant, he had already completed 20 years 5 months and 29 days of service in the parent Organisation when it was merged. However, the respondents issued pension order entitling him to get pension from 1996 instead of 1.10.1986 which was payable in the light of the above-mentioned order dated 22.9.1986. It is further claimed that Shri Maithili Sharai Prasad, who was co-employee of CMLWO, filed O.A.

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No.320/93 before this Tribunal which was allowed on 31.8.1994 and his claim regarding pro-rata pension with effect from 1.10.1986 was allowed. It is said that Union of India filed S.L.P. before the Hon'ble Supreme Court which was disposed of in favour of Shri M.S. Prasad on 21.8.1995. It is contended that in view of the decision by this Tribunal and also in view of the decision by the Hon'ble Supreme Court, the authorities concerned were bound to sanction pro-rata pension with effect from 1.10.1986 but the respondents have refused to do so saying that the judgment in question was not applicable to the applicant. It is in these circumstances asserted that necessary direction be issued regarding payment of pro-rata pension with effect from 1.10.1986.

3. On behalf of the respondents, it has not been denied that the applicant had served CMLWD for a period of more than 20 years at the time of merger on 1.10.1986. It has, however, been contended that as the applicant had not completed the requisite period of 30 years of qualifying service, he was not entitled to get pension with effect from 1.10.1986 in view of the letter dated 8th September, 1983 and also in view of Rule 37 of the CCS(Pension) Rules, 1972. The respondents have further contended that the judgment in question by this Bench was not applicable to the applicant and further the Hon'ble Supreme Court has disposed of the S.L.P. in favour of the

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respondents. However, it is contended that after getting clarification from the Assistant Government Advocate, Shri M.S. Prasad was sanctioned pensionary benefits with effect from 1.10.1986.

4. I have heard the learned counsel for the parties and perused the record. The learned counsel for the applicant has placed reliance on the decision in O.A.320/93 decided on 31st August, 1994 by this Bench. The question which has been now raised by the applicant in the present O.A. was considered and decided in favour of the applicant in that case. The applicant of O.A.320/93 Shri M.S. Prasad was also an employee of the same Organisation (CMLWB) at the time of merger of the same with Coal India Limited. Actually, in his case no specific order of his confirmation had been passed till the time of merger of the Organisation. This Bench after consideration of the facts of the case held that it should be deemed that Shri M.S. Prasad had been confirmed while serving in that Organisation. Reliance was placed on clause (d) of the circular by which the Organisation in question was merged with the Coal India Limited. That circular provided for the grant of pro-rata pension to the permanent central Government servants who had completed 10 years or more service at the time of merger. After considering the above-mentioned provision, this Bench held that the applicant of that O.A. was entitled to retirement benefits for the service rendered under the Government as per clause (d) of the Pensionary terms on en masse transfer of

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employees in Central Public Sector Undertakings/ABs as aforesaid.

5. The Union of India filed S.L.P. before Hon'ble Supreme Court against the judgment by this Bench. The S.L.P. was decided on 21.8.1995 with the following order:-

"In view of the counter-affidavit filed by respondent that he has not received any amount of Contributory Provident Fund from the Government or he has not claimed any amount thereunder and he is entitled to the pensionary benefits. In that view of the matter the special leave petition is disposed of."

In view of this order by the Hon'ble Supreme Court the respondents admittedly granted pro-rata pension to Shri M.S.Prasad.

6. The case of the present applicant is similar to that of Shri M.S. Prasad who has been granted pensionary benefits in view of the provision contained in clause (d) of the circular letter of the Government of India. As mentioned earlier, it is not even disputed that the applicant was a permanent employee when his parent Organisation merged on 1.10.1986. There is in the present case no allegation that the applicant had received any amount of Contributory Provident Fund from the Government or he has claimed any amount thereunder. In the circumstances, the applicant was also entitled to claim the same benefit which has been allowed to Shri M.S. Prasad, In the circumstances, this B.A. } should be allowed.

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7. The D.A. is allowed to the extent that the applicant shall be granted pro-rata pensionary benefits with effect from 1.10.1986 as has been claimed by him. The fixation of ~~pension~~ shall be done within a period of three months from the date on which a certified copy of this order is produced before the appropriate authority. No order as to costs.

V.N. Mehrotra
26.5.1897

(V.N. Mehrotra)
Vice-Chairman

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