

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 793/89.

XXXXXX Application XXXXX

DATE OF DECISION: 05.10.1994.

T. Velayutham, Petitioner

None. Advocate for the Petitioners

Versus

Union Of India & Others. Respondent

Shri J. P. Deodhar, Advocate for the Respondent(s)

CORAM :

The Hon'ble Shri Justice M. S. Deshpande, Vice-Chairman.

The Hon'ble Shri P. P. Srivastava, Member (A).

1. To be referred to the Reporter or not ? *no*
2. Whether it needs to be circulated to other Benches of the Tribunal ? *no*

Chairman
(M. S. DESHPANDE)
VICE-CHAIRMAN.

os*

(12)

BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH.

O.A. NO.: 793/89.

T. Velayutham ... Applicant

V/s.

Union Of India & Others ... Respondents.

CORAM :

Hon'ble Shri Justice M. S. Deshpande, Vice-Chairman.

Hon'ble Shri P. P. Srivastava, Member (A).

APPEARANCE :

1. Shri J. P. Deodhar,
Counsel for the Respondents.

ORAL JUDGEMENT

DATED : OCTOBER 05, 1994.

(Per. Shri M. S. Deshpande, Vice-Chairman)

1. The applicant by this application, seeks a direction for quashing the letter dated 18.03.1985 issued by the Respondent No. 1 and for a direction to condone the break in service of two days i.e. 01.03.1973 and 02.03.1973 and the period commencing from 12.09.1981 to 29.05.1981 be counted as qualifying service for the purpose of pensionary benefits and also for quashing the letter dated 24.06.1986 issued by the Respondent No. 2 and the Government of Tamil Nadu be directed to bear proportionate pensionary liability in respect of

: 2 :

temporary service rendered under the State Government Tamil Nadu to the extent such service would have qualified the applicant for grant of pension under the rule of the State Govt. be shared in the service share basis and also for treating the services rendered by the applicant with Respondent No. e (Bharat Earth Movers Limited) and Respondent No. 4 (Hindustan Photo Films Mfg. Co.) which was a Public Sector Undertaking, as qualifying service, after condoning the entire period of service i.e. 01.03.1973 and 02.03.1973.

2. The service particulars, as given by the applicant, in his statement filed with this application is reproduced below :-

I. Details of service rendered in the Department of Industries and Commerce - Government of Tamil Nadu.

- (i) Joined duty as Supervisor of Industrial Co-operatives in the Madras Industrial Subordinate Service.
 - (a) Training in the Industrial Co-operatives Training Institute, Madras. 12.9.61 to 31.3.62 AN.
 - (b) Supervisor of Industrial Co-operatives Office of the Asstt. Director Of Industries & Commerce, Cuddalore. 1.4.62 to 26.10.1964AN.
 - (c) Supervisor of Industrial Co-operatives Office of the Director of Industries and Commerce, Madras. 4.11.64 to 10.2.1965.
 - (d) Commenced probation as Supervisor of Industrial Co-operatives on 12.9.61 and completed probation satisfactorily on 18.9.1963 FN.
 - (e) Promoted and posted as Industrial Co-operatives Officer/ Secretary Chetput Match Workers' Industrial Co-operative Society. 12.2.1965 to 22.7.1965 AN.

(f) Commenced probation in post (e) on 12.2.1965 FN and completed probation satisfactorily on 26.2.1967 FN.

(g) Posted as Industrial Co-operative Officer/Secretary Erode Carpending Workers Industrial Co-operative Society. 23.7.1969 to 28.2.1973.

II. Service in Public Sector Undertakings :

(a) Bharat Earth Movers Ltd., Kolar Gold. Fields : As Accounts Officer. 3.3.1973 to 14.12.1976.
As Asstt. Accounts Manager. 15.12.1976 to 8.7.1977.

(b) Hindustan Photo Films Manu-Factoring Co. Ltd., Ootacamund. 9.7.1977 to 29.5.1981AN.
As Secretary.*

3. The contention of the applicant is that, he is entitled to have the entire service rendered in the Public Sector Undertaking and in the State Government of Tamil Nadu, as qualifying service for giving him pensionary benefits. After the application was filed in the year 1989, the applicant retired on 31.03.1993. The applicant did not appear on the date fixed for hearing but has filed his written arguments. We have considered his written arguments and also heard the Learned Counsel for the Respondents.

4. The first decision on which the applicant relies is at Annexure 'M' in O.A. 515/88 of Shri Dattatraya Vishram Khanolkar V/s. Union Of India & Others, decided on 17.02.1989 by this Bench of the Tribunal. It is however apparent from the Judgement

that ~~vide~~ letter dated 17.08.1984, the Under Secretary to the Government Of Maharashtra informed the General Manager that the Government had no objection to condone the break in service for one day i.e. 26.11.1959 of the applicant and formal orders in this regard would be issued after the necessary certificate as requested by the applicant in his application dated 20.05.1983 is issued by the Western Railway for agreeing to bear the proportionate pensionary liability in respect of his service. The change in that case was from the service of Western Railway to ~~State Government and that aspect~~ was clearly governed by the rules of the States. In the present case, the ratio of that decision would not apply. The other decision on which the applicant relies was delivered in Application No. 912 and 919 of 1988 B. R. Venkataraman V/s. Union Of India decided by the Bangalore Bench of this Tribunal on 28.02.1989. The direction in that case was to examine the claims of the applicants for pro-rata pension and retiral benefits in accordance with the pension Rules and all other orders regulating the same and arrange for the payment of all such amounts which are due to them. ~~There the~~ applicants had joined service as Auditors in the office of the Accountant General, Karnataka, Bangalore and thereafter they were appointed in the Central Machine Tools Institute. The Learned Counsel for the Respondents pointed out that in the present case, the applicant had resigned in the year 1973 from the employment of State of Tamil Nadu with whom he was working from the year 1961 to 1973

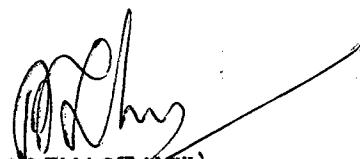
before he joined Bharat Earth Movers Limited. He again resigned in the year 1977 before joining Hindustan Photo Films Manufacturing Co. The applicant had also resigned from the employment of Hindustan Photo Films Manufacturing Co. before taking up the employment with the first Respondents - Union Of India. It is apparent from the observations of this Tribunal in B. S. Mitra V/s. Union Of India & Others, (1990) 12 Administrative Tribunals Cases 286, that resignation from the undertaking, ~~held~~, resulted in forfeiture of ~~his~~ earlier service under the Government and would dis-entitle him to pension. Considering that, ~~every~~ at ~~any~~ stage, while shifting the employment, the applicant had resigned from the service of his earlier employer, the applicant would not be in a position to ask for counting of service rendered with the earlier employers as qualifying service for the purpose of pension.

5. One more point raised by the applicant was that, he was supported by a precedent, as quoted in para 17 of the application, wherein the interruption of service between two spells of Govt. Service rendered by Grade-I (retired) CCLS Officer was considered by the Respondent No. 1 at the time of his superannuation under Rule 28(a) of the CCS (Pension) Rule 1972 and treated the period of service rendered under the Govt. Company namely, Sindry Fertilizer & Chemicals Limited as Technical interruption and condoned the same. The reply of the Respondent No. 1 to this averment is found in para 27 of the written statement where it is pointed out that the Officer concerned Shri S. C. Basu, was an Assistant in

the Central Government in the Office of the Chief Technical Adviser (Fertilizer Project) Ministry of Industry & Supply. With the formation of M/s. Sindri Fertilizer & Chemicals Ltd. as a new Government Company the services of Shri Basu and also all others from that office were transferred to the new company without asking for their consent and since Shri Basu did not exercise the option to join the Government Company, his case would stand at an entirely different footing. On merits, therefore, it is not possible for us to accept the contention of the applicant that he was entitled to count the services rendered by him in the two Public Corporation and with the Government of Tamil Nadu, as qualifying service for the purpose of pension.

6. The Learned Counsel for the Respondents have raised the question of limitation also. By the Order dated 16.11.1984, the applicant's claim had been denied and he had not approached the Tribunal within the time provided under Section 21 of the Administrative Tribunals Act. This point was however, not pressed on behalf of the Respondents.

7. In the result, we see no merit in the application and dismiss the same. No order as to costs.


(P. P. SRIVASTAVA)
MEMBER (A).


(M. S. DESHPANDE)
VICE-CHAIRMAN.