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CAT/J/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

O.A. No. 924/89 198
T.A. No. ----

DATE OF DECISION 3-6-1993

T.G. Bobade Petitioner

Mr. B. Ranganathan Advocate for the Petitioner(s)

Versus

U.O.I & Ors. Respondent

Mr. P.M. Pradhan Advocate for the Respondent(s)

CORAM :

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

The Hon'ble Ms. Usha Savara, Member(A)

1. Whether Reporters of local papers may be allowed to see the Judgement? *yes*
2. To be referred to the Reporter or not? *-*
3. Whether their Lordships wish to see the fair copy of the Judgement? *|*
4. Whether it needs to be circulated to other Benches of the Tribunal? *no*

MGIPRRND-12 CAT/86-3-12-86-15,000

(Signature)
(M.S. DESHPANDE)
VC

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(8)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A.924/89

T.G.Bobade,
43, Mahatma Nagar,
Santacruz(East),
Bombay - 400 055.

.. Applicant

-versus-

1. The Union of India
through
The Secretary,
Defence Production and
Supplies,
Department of Defence
Production and Supplies,
Ministry of Defence,
New Delhi - 110 011.
2. The Director General of
Quality Assurance(Admn.-6),
Department of Defence Production,
Ministry of Defence,
DHO PQ, New Delhi - 110011.
3. The Director of Quality
Assurance(Stores)
Department of Defence Production
(Stores-1) DHQ PO
New Delhi - 110 011.
4. The Controller of Defence
Accounts(Pension)
Draupadi Ghat, Sec. G I(Civil),
Allahabad (UP).
5. The Chief Quality Assurance
Officer, Chief Quality
Assurance Establishment
(Materials), Govt. of India,
Ministry of Defence(DGQA)
Post Box No.229
Kanpur - 208 004.

.. Respondents

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

Hon'ble Ms.Usha Savara, Member (A)

Appearances:

1. Mr.B.Ranganathan
Advocate for the
Applicant.
2. Mr.P.M.Pradhan
Counsel for the
Respondents.

ORAL JUDGMENT: Date: 3-6-1993
(Per M.S.Deshpande, Vice-Chairman)

The only question which arises for consideration in this O.A. is whether the applicant is entitled to added years of service under Rule 30 of the CCS(Pension)Rules.

2. The applicant was directly appointed as Senior Scientific Officer, Grade-II at the age of 33 years in the office of Chief Quality Assurance Officer, Chief Quality Assurance Establishment(Materials) and his contention is that he was appointed due to his specialised qualifications and experience in technology and professional fields as he had worked in the field of leather technology and footwear technology from U.K. He was appointed in quasi permanent capacity as Senior Scientific Officer Grade-II(Class-I) w.e.f. 1-7-66 and was superannuated on 30-9-87. The applicant's grievance is that he is entitled to the benefit of the second proviso to sub-rule 1 of Section 30 of CCS Pension Rules and it is therefore necessary to extract that rule in extens~~o~~^o.

"(1) A Government servant who retires from service or post after the 31st March, 1960, shall be eligible to add to his service qualifying

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for superannuation pension (but not for any other class of pension) the actual period not exceeding one-fourth of the length of his service or the actual period by which his age at the time of recruitment exceeded twenty-five years or a period of five years, whichever is less, if the service or post to which the Government servant is appointed is one -

- (a) for which post-graduate research or specialist qualification or experience in scientific, technological or professional fields, is essential; and
- (b) to which candidates of more than twenty-five years of age are normally recruited:

Provided that this concession shall not be admissible to a Government servant unless his actual qualifying service at the time he quits Government service is not less than ten years:

Provided further that this concession shall be admissible only if the recruitment rules in respect of the said service or post contain a specific provision that the service or post is one which carries the benefit of this rule."

3. According to the learned counsel for the applicant the applicant did have the qualifications enumerated in clause (a) and since there were no Recruitment Rules in respect of the said service, he was handicapped because the benefit of five years conferred by sub rule 1 ^{of Rule 30 ✓} ^{made ✓} would not be available to him. He drew our attention to Annexure-1 to the Ministry of Personnel, Public Grievances & Pensions (Department of Personnel & Training), Office Memo No. AB 14017/12/87-Estt. (RR) dated March 18, 1988 addressed to all the Ministries and Departments. Under column 6 it was necessary to mention

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whether the benefit of added years of service is admissible under rule 30 of the CCS(Pension) Rules, 1972. ~~and~~ In para 3.7 ~~where~~ it was noted that in cases where for the scientific, medical technological and other professional posts and services, the benefit of added years of service for pension under Rule 30 of the CCS (Pension) Rules, 1972 is considered essential. such posts should be identified in consultation with the Department of pension and Pensioners' Welfare and the Union Public Service Commission and a suitable provision should be incorporated in the relevant recruitment rules so that the benefit is automatically available to all the candidates who are ~~xxxxxx~~ recruited in accordance with the provisions of these rules and it does not become necessary to take a decision in each individual case at the time of recruitment.

4. Shri Ranganathan's grievance is that this was not done and it was only by notification dt. 6-2-92 that a direction was made by inserting sub rule 6 after rule 11 in the Defence Quality Assurance Service Rules, 1979 to the effect that "Direct recruit officers appointed to the posts of Senior Scientific Officer Grade-I and above in the Service shall be entitled to the benefit of added years of service for the purpose of superannuation pension admissible under Rule 30 of the Central Civil Services(Pension) Rules, 1972. Provided that this benefit shall not be admissible if such a direct recruit before his appointment as Principal Scientific Officer or Senior Scientific Officer-I or Senior Scientific Officer-II has held a post under the Central or a State or a Union Territory Government or

in an autonomous body under any such Governments where he has been given the benefit of added years of service under Rule 30 of Central Civil Services (Pension) Rules, 1972 or has been given the benefit of counting that period of service rendered under the Central or State or Union Territory Government or an autonomous body under any such Governments with the Government of India Service."

5. Obviously the applicant's case does not fall within the sub-rule 6 so inserted because he was not a direct recruit appointed to the SSO Gr.I. We may observe that this was so in the case of Mr. Mukherji whose instance is cited by the applicant for contending that the benefit which was given to Mr. Mukherji was arbitrarily denied to him.

6. However, ~~once~~ the position is clear that to obtain benefit under proviso-2 the Recruitment Rules must contain a specific provision that the service of the post one which carries the benefit of Rule 30. Obviously there is no such specific provision which will enable the applicant to get the benefit of five years under sub-rule 1 of Rule 30. The applicant cannot therefore bring his case within the second proviso of sub-rule 1 of Rule 30.

7. With regard to Mr. Mukherji the contention was that the benefit which was granted to him even before the insertion of ~~sub-rule 6~~ of 6-2-92 and a similar concession should have been extended to the applicant. We have referred to the minimum education^{al} qualifications required for

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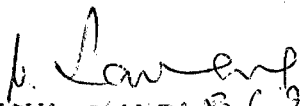
SSO Gr.II and SSO Gr.I. The applicant belonged to the former while Mr. Mukherji belonged to the latter category. In both the cases it was essential to have at least Second Class Master's Degree in Science subjects, or Second Class Degree in Engineering/Technology/Metallurgy from a recognised University or equivalent. ~~While~~ two years' practical experience in production/development/quality assurance in the relevant field was necessary. in the former, 4 years' practical experience in production/development/quality assurance in the relevant field for the latter. In respect of both the posts it was desirable to have knowledge of German, French, Russian, Japanese or Chinese but for SSO Gr.I it was also desirable to have Doctorate Degree in Science or Master's Degree in Engineering/Technology/Metallurgy in the subject concerned. The age limit for SSO Gr.II was 30 years and for SSO Gr.I it was 35 years.

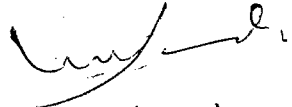
8. It is therefore obvious that higher specialised qualifications were required for a direct recruit to SSO Gr.I than those for SSO Gr.II. Since the academic qualifications and experience required for SSO Gr.I were ~~of~~ higher than SSO Gr.II the two posts cannot be treated as identical for the purpose of extending the benefit of added years for ~~drawing~~ drawing pension on superannuation. In fact the higher age limit prescribed for SSO Gr.I together with higher qualifications shows that the incumbent for SSO Gr.I had to spend more years for acquiring the essential qualifications before he could be recruited to that post and the consideration of added years to be granted for

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SSO Gr.I had ^a nexus to the objective ~~to be~~
- extension of -
achieved, namely the ^{the} concession was ~~extended~~
to those persons with requisite qualification^s
and not to SSO Gr.II. It cannot be said that
there was an element of arbitrariness in it.
What ^{was} held good for Mukherji in these ~~the~~ circumstance
cannot be extended to the applicant and we do
not find that there was any violation of Article 16
in the present case.

9. In the circumstances we do not
think that the applicant can claim any concession
in getting five years added service at the stage
of superannuation. We see no merit in this appli-
cation which is dismissed with no order as to
costs.


(USHA SAVARA) 3 6. 73
Member(A)


(M.S. DESHPANDE)
Vice-Chairman

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