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CAT/3/12

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. 362/89

T.A. No.

198

DATE OF DECISION 6-7-1990

Shri J.U.Thakore Petitioner

Applicant in person Advocate for the Petitioner(s)

Versus

Union of India Respondent

Through Dy. Director Administration, CBI

C.G.O. Complex, Block-3, 4th Floor,

Lodhi Road, New Delhi.

Advocate for the Respondent(s)

Shri V.S.Masurkar, Advocate

## CORAM

The Hon'ble Mr. D.Surya Rao , Member(J)

The Hon'ble Mr. P.S.Chaudhuri, Member(A)

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



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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW BOMBAY BENCH  
NEW BOMBAY

O.A. No. 362/89

Shri J.U.Thakore  
7/32, Pearl of Juhu J.V.P.D.Scheme,  
Vile Parle, (W), Bombay-400-049.

... Applicant

Vs.

1. Union of India  
Through Respondent No.2

2. Dy. Director Administration, CBI,  
C.G.O. Complex, Block-3,  
4th Floor, Lodhi Road,  
New Delhi.

.... Respondents

**Appearances:**

Applicant in person.

Shri V.S.Masurkar, Advocate  
for respondents No.1 &2.

Coram: Hon'ble Shri D.Surya Rao, Member(J)  
Hon'ble Shri P.S.Chaudhuri, Member(A)

Dated: 6-7-1990.

Judgement

(per: Shri D.Surya Rao, Member(J))

The applicant herein has retired from the service of the Central Govt. as a Senior Public Prosecutor for the C.B.I/Bombay. He commenced practise as a Pleader in 1951 and was appointed as Assistant Public Prosecutor in the Special Police Establishment with effect from 1.11.1958. He was promoted as Public Prosecutor on 10.8.1964 and as Senior Public Prosecutor with effect from 12.4.1971. He retired from service on 1.10.1981. His conditions of service are governed by the Central Bureau of Investigation ( the Prosecuting Staff Recruitment) Rules, 1980, hereinafter referred to as the Rules. The applicant contends that originally in Column 6(a) of the Rules under the heading,

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" Whether benefits of added years of service admissible under Rule 30 of the CCS(Pension) Rules, 1972," the entry read "NO". By a Notification dated 8.11.1983, the Schedule was amended and the word "No" was substituted by the word "Yes". The applicant contends that by virtue of the amended rule read with Rule 30 of the C.C.S.(Pension) Rules, 1972, he is entitled to add as qualifying service for the purpose of superannuation pension the 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. The applicant on 2.7.1987 requested the respondents to give him the benefit of Rule 30 of the Pension Rules. He received a reply dated 1.6.1988 from the 2nd respondent informing him that the benefit sought by him is not admissible. This is the order sought to be impugned in the application.

2. On behalf of the respondents a reply has been filed denying that the applicant is entitled to the benefits claimed. A preliminary objection is raised that the application is time-barred. On merits it is contended<sup>st</sup>. It is stated that Rule 30 of the C.C.S.(Pension) Rules which originally prescribed that the benefit of additional qualifying service which was available to Government servants who were appointed after 31.3.1960 was amended with effect from 28.10. 1987 extending the benefit to all those who retired after 31.3.1960 but who were otherwise eligible under Rule 30. It is stated in the reply that the impugned order dated 1.6.1988 was issued consequent on the Department of Personnel having examined the request and it being held that the applicant cannot be given the

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benefit of Rule 30 of the C.C.S. (Pension) Rules since the post to which the applicant was recruited does not even now carry the benefit of added years of qualifying service under Rule 30.

3. We have heard the applicant who argued his case in person and Shri V.S. Mahsurkar, Standing Counsel for the respondents. The question that arises for determination is whether the Rules under which the applicant was recruited even now do not allow the benefit of added years of service. In view of the amendment to column 6(a) to the Schedule to the Rules with effect from 8.11.1983 whereby the word "No" was substituted by the word "Yes", it follows that the view or opinion of the Ministry of Personnel is wrong. By virtue of the amendment, the benefit of Rule 30 was specifically extended to Public Prosecutors and Senior Public Prosecutors. The applicant has also relied on a Bench decision of this Tribunal rendered in Application No. 167/86 dated 25.2.1987 wherein the question whether a Senior Public Prosecutor on retirement was entitled to the benefit of Rule 30 of the Central Civil Services (Pension) Rules, 1972, were considered. The Service Rules by which the Senior Public Prosecutors were governed and the fact that when the applicant in that case joined service, the benefit of Rule 30 was not available was taken into consideration. It was held that the provisions of Rule 30 are meant for giving the benefit of added years of service to specially qualified or appointed experienced persons/to such posts where these qualifications are necessary and that the applicant had experience

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at the Bar which rendered him eligible for appointment as a Public Prosecutor and that since he joined service at the age of 33 years he was entitled to the benefit of Rule 30 of the Pension Rules. All these conditions apply to the applicant also. The post of Assistant Public Prosecutor to which the applicant was appointed required a Law Degree and 3 years experience at the Bar in conducting criminal cases. The applicant was born on 3.10.1923 and recruited on 1.11.1958, i.e., he was over 34 years of age at the time of initial recruitment, and as such, his case is similar to that of the applicant in Application No.167/86 who was given the benefit of Rule 30 of the Pension Rules. With the amendment of Rule 30 of the Pension Rules on 28.10.1987 extending the benefit of added years of service to those retired after 31.3.1960 and with the amendment of the CBI(Prosecuting Staff Recruitment) Rules, 1980, by substituting "Yes" for the word "No" in column 6(a) to the Schedule, the applicant became eligible for the benefit of the added years.

4. In regard to the question of limitation, we see no substance in the objection raised by the respondents. The amendment of the C.C.S.(Pension) Rules 1972 from 28.10.1987 has given the applicant the cause of action and his representation made as a consequence thereto was rejected on 1.6.1988. He has filed the application on 29.5.1989, viz. within one year thereafter. Hence section 21 of the Central Administrative Tribunals Act, 1985 is no bar to the applicant's case.

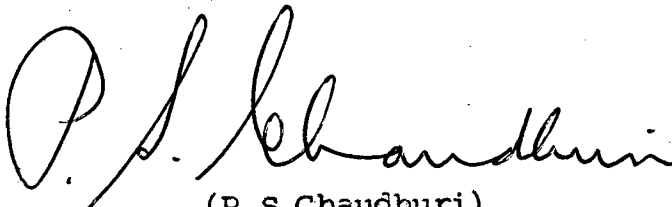
5. For the reasons given above, we allow the application as prayed for, viz. the respondents are directed to give the


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benefit of adding to his qualifying service for superannuation Pension under Rule 30 of the C.C.S.(Pension) Rules with effect from 8.11.1983 the date on which the Service Rules by which the applicant was governed were amended. The pension and other retirement and terminal benefits due to the applicant as a consequence of adding the said 5 years shall be recast and whatever arrears are due to the applicant shall be paid to him within a period of 3 months from the date of the order. The applicant shall also be paid interest at 10% per annum viz usual Bank rate of interest from 2.7.1987, viz. the date of the claim till the date of payment. We make no order as to costs.

  
(P. S. Chaudhuri)  
Member(A)

  
(D. Surya Rao )  
Member(J).

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