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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY.

Original Application No. 433/89.

Shri R.H.Dani.

... Applicant.

V/s.

Union of India & Others.

... Respondents.

Coram: Hon'ble Vice-Chairman, Shri U.C.Srivastava,
Hon'ble Member(A), Shri M.Y.Priolkar.

Appearances:-

Applicant present in person.
Respondents by Shri V.M.Bendre.

JUDGMENT:-

¶ Per Shri M.Y.Priolkar, Member(A) ¶

Dated: 23-4-1991

The applicant was a member of the Defence Research and Development Service and retired on super-annuation on 31st March, 1989 as Scientist grade 'D'. His grievance is that he has been denied the benefit of added ^{admissible} years of service qualifying for superannuation pension to specially qualified and experienced personnel under Rule 30 of CCS (Pension) Rules. The respondents contend that this benefit is available only to persons appointed by direct recruitment to the post of Scientist 'C' and above and since the applicant was promoted to the post of Scientist 'C' and not directly recruited to that post, he is not entitled to the benefit of added years of qualifying service for pension.

2. The relevant rule viz. Rule 12(2) of DRDS Rules, SRO 228 of 6th January, 1986 is reproduced below:

"Officers appointed to the posts of Scientist 'C' and above in the service, shall be entitled to

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CORAM: Hon'ble Vice Chairman,

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the benefits of added years of service for purpose of superannuation pension admissible under Rule 30 of the Central Civil Services (Pension) Rules, 1972 and this benefit shall also be admissible to Officers who were appointed to comparable posts in the Defence Science Service and have been encadred in the Defence Research and Development Service".

Evidently, there is no restriction on the scope of this rule depending on the method of appointment. Since promotion is one of the methods of appointment on par with direct recruitment under the relevant rules, a promoted Officer should also be entitled to the benefit of this rule, subject to other conditions governing the grant of this benefit. Same such other conditions under Rule 30 of CCS(Pension) Rules, 1972 are 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, and for appointment to which either post-graduate research or specialist qualification or experience in Scientific, Technological or Professional fields is essential and candidates of more than twenty five years of age are normally recruited. In view of the order that we propose to pass in this case we do not consider it necessary to express any opinion about the rival contentions made on behalf of both parties regarding the fulfilment or otherwise of these other conditions.

3. The applicant has alleged that the case of one Dr.E.S.Jog, which is a similar case to that of the applicant was submitted to Respondent No.2 who granted this

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benefit to Dr.Jog, but the applicant's case has been rejected by Respondent No.3 himself without any reference to Respondent No.2. In the written reply filed by Respondent No.3, it is stated that the grant of benefit to Dr.Jog appears to be a mistake and that the case of Dr.Jog for grant of benefit of added years of qualifying service is being reviewed in consultation with CDA(Pension), Allahabad and the Department of Pension and Pensioners' Welfare. In our view, Respondent No.3 should not have himself decided the applicant's case when there was already a precedent of Dr.Jog's case where a contrary decision had been taken by the superior authority, namely, Respondent No.2. While it was no doubt open to Respondent No.3 to express his own views while forwarding the applicant's case, the final decision should have been left to Respondent No.2.

4. We, accordingly, direct Respondent No.3 to forward the applicant's case to Respondent No.2 within four weeks from the date of receipt of a copy of this order and Respondent No.2, within three months thereafter, should dispose of the case in accordance with the rules, after taking into account these submissions made by the applicant in this application and our observations in this order. With this direction, this application is disposed of finally, with no order as to costs.

11/11/91
(M.Y.PRIOLKAR)
MEMBER(A)

11/11/91
(U.C.SRIVASTAVA)
VICE-CHAIRMAN