

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 1042/96

Date of Decision: 27.11.97.

Shri T.G. Salve. Applicant.

Shri K.R. Yelwe. Advocate for
Applicant.

Versus

Union of India and others. Respondent(s)

Shri R.G. Kotiankar. Advocate for
Respondent(s)

CORAM:

Hon'ble Shri. B.S. Hegde, Member (J)

Hon'ble Shri.

- (1) To be referred to the Reporter or not?
- (2) Whether it needs to be circulated to other Benches of the Tribunal?


(B.S. Hegde)
Member (J)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH 'GULESTAN' BUILDING NO:6
PRESCOT ROAD, MUMBAI:1

Original Application No. 1042/96

Thursday the 27th day of November 1997.

CORAM: Hon'ble Shri B.S. Hegde, Member (J)

T.G. Salve
Residing at
Bhayadi, Post Danpur
Taluka Bhokrdan,
Dist. Jalna.

... Applicant.

By Advocate Shri K.R. Yelwe.

V/s.

Union of India through
The Chief General Manager,
Maharashtra Telecom Circle,
G.P.O. 2nd floor, Bombay.

The Chief General Manager
Mahanagar Telephone Nigam Ltd.
13th floor, Telephone House,
V.S. Marg, Dadar (West)
Mumbai.

The General Manager (LD)
M.T.N.L. Bombay, Telecom Building
C.R. Marg, Mumbai.

The General Manager,
M.T.N.L. Bombay,
Telephone House, V.S. Marg.,
Mumbai

The Accounts Officer (Traffic - 1)
M.T.N.L. Telephone Building,
C.R. Marg., Mumbai.

... Respondents.

By Advocate Shri R.C. Kotiankar.

ORDER (ORAL)

{ Per Shri B.S. Hegde, Member (J) }

Heard counsel for the parties.

2. The short point for consideration is whether the applicant is entitled to get the benefit of earlier service as Casual Labour on daily wages from 1.1.75 to 5.8.85, keepoing in view of the O.M. of the department G.I.M.F., O.M. No. F.12(1)-E.V/68 dated 14.5.68, which reads as below:

" Under Article 368 of the C.S.Rs(Rule 14) periods of service paid from contingencies

do not count as qualifying service for pension. In some cases, employees paid from contingencies are employed in types of work requiring services of whole-time workers and are paid on monthly rates of pay or daily rates computed and paid on monthly basis and on being found fit brought in to regular establishment. The question whether in such cases service paid from contingencies should be allowed to count for pension and if so, to what extent has been considered in the National Council and in pursuance of the recommendation of the Council, it has been decided that half the service paid from contingencies will be allowed to count towards pension at the time of absorption in regular employment subject to the following conditions:

(c) The service should have been one for which the payment is made either on monthly or daily rates computed and paid on a monthly basis and which though not analogous to the regular scale of pay should bear some relation in the matter of pay to those being paid for similar jobs being performed by staffs in regular establishments

3. The learned counsel for the applicant states that the applicant has been working as Casual Labour with effect from 1.1.75 to 5.8.85 and his services have been regularised with effect from 6.8.85. The applicant was invalidated with effect from 22.8.91. Thus the applicant have put in a service of 6 years and 18 days in the department. Thereby the applicant has been denied the minimum qualifying service for the grant of pension ie. 10 years. The learned counsel for the applicant further states that the applicant is entitled to count half of his service as casual labour for the purpose of pension and gratuity as per Government

of India decision No.2 below Rule 14 of C.C.S.(Pension) Rules 1972. In this connection the learned counsel for the applicant has drawn my attention to the decision of this Tribunal in the case of B.R. Jadhav V/s. Union of India and others. (1996) 33 ATC 58 considering the plea of the Government that he was not entitled to benefit of pre-regularisation service because he was not paid from the contingency fund but his wages as casual labourer were paid ~~from~~ maintenance of systems, the said plea was rejected and directed the respondents to consider the case of the applicant ~~and to account 50 %~~ of applicant's pre-regularisation service for the purpose of determining his pensionary benefits. The facts of the case is squarely applies to the present case.

4. In the circumstances, I hereby, direct the respondents to consider the case of the applicant and to account 50% of applicants pre-regularisation service for the purpose of determining his pensionary benefits, as per Rules within a period of three months from the date of receipt of this order. The O.A. is disposed of accordingly.


(B.S. Hegde)
Member (J)

NS

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

C.P.NO. 11/98 in OA.NO.1042/96

Monday this the 30th day of March, 1998

CORAM: Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman
Hon'ble Shri P.P.Srivastava, Member (A)

T.G.Salve

By Advocate Shri K.R.Yelwe ... Applicant

vs.

Union of India & Ors.

By Advocate Shri R.C.Kotiankar ... Respondents

Tribunal's Order

Heard both sides. Applicant has filed C.P.NO.11/98 for taking action against the respondents for not complying with the order passed by this Tribunal dated 27.11.1997. In the meanwhile, respondents have filed M.P.NO.197/98 seeking extension of time for complying with the order. We have heard the learned counsel for the parties. It is true that the respondents were bound to obey the order passed by the Tribunal within three months. In the meanwhile, respondents have filed Review Petition No.5/98 dated 9.1.1998 seeking review of the order passed by this Tribunal. The review petition came to be dismissed by order dated 5.3.1998. Then on 9.3.1998 the respondents have filed the present M.P. No. 197/98 for extension of time. The learned counsel for the respondents submitted that the respondents may approach the High Court against the order passed by the Tribunal or they may comply with the order of this Tribunal or take appropriate steps. But the learned counsel for the applicant opposes for grant of time.

2. In the circumstances of the case, we feel that three months' time is just and fair to comply with the order of this Tribunal. Since we are granting the time, the contempt petition does not survive. If, however, the respondents do not carry out the order in the extended time, then it is open to the applicant to file a fresh C.P.

3. In the result, C.P. is disposed of on the above observations. M.P. is hereby allowed granting three months' time to the respondents to comply with the order passed by this Tribunal. In the circumstances of the case, there will be no orders as to costs.



(P.P. SRIVASTAVA)
MEMBER (A)



(R.G. VAIDYANATHA)
VICE CHAIRMAN

mrj.

7/10
Order dated 3-13-98
Judgment despatched
to Appellant/Respondent(s)
on 27-4-98
G
27-4-98