

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH 'GULESTAN' BUILDING No.6
PRESCOT ROAD, MUMBAI-400001

O.A.No. 795/96

DATED : 23rd October, 1997

CORAM : Hon. Shri Justice R.G.Vaidyanatha, V.C.

G.A. Wagholikar
Ex. Joint Director
Employment Exchange
B-1 Amar Chhaya
Sholapur Road
Hadapsar, Pune 411028
(By Adv. Mr. D B Patil)

..Applicant

V/s. .

Government of India
Ministry of Labour
Directorate of Employment
and Training
Shram Shakti Bhavan
Rafi Marg
New Delhi 110001

2. The Secretary
Government of Maharashtra
Finance and Education Department
Mantralaya
Annexe Building
Mumbai 400032

(Respondent No.1 by Mr. R K Shetty
Respondent No.2 by Mr. V S Masurkar) ..Respondents
Counsel

ORDER

(Per: R.G.Vaidyanatha, Vice Chairman)

1. This is an application under section 19 of the Administrative Tribunals Act, 1985. The first respondent, who was the only respondent earlier, has filed reply to the application. The second Respondent has been subsequently impleaded as a party. Heard the learned counsel for the applicant and the learned counsel appearing for both the respondents.
2. The applicant has filed this application for getting the benefit of service from 19.7.1959 to 5.1.1966 for the purpose of getting pensionary benefits etc.

The applicant was working in the State of Maharashtra from 1966 to 1971. Then he joined service under the Central Government where he worked from 3.1.72 to 31.5.90 when he attained superannuation. He has been given pensionary benefits on the basis of service from 1966 to 1990. Now his grievance is that prior to 1966 he was working as a teacher in private institutions from 1959 to 1966 and this period should be added to his total service to get higher pensionary benefits.

3. The first respondent has filed a written statement objecting the claim of the applicant. The stand taken by the first respondent is that according to law and rules the applicant is entitled to count his service only from 1966 to 1990 for the purpose of pensionary benefits and his earlier service in some private institution cannot be considered for the purpose of granting pensionary benefits.

4. The only short point for consideration is whether the applicant is entitled to claim the earlier service in a private institution from 1959 to 1966 and to be added to his total service for getting higher pensionary benefits or not.

5. The learned counsel for the applicant was not able to point out any rule issued by the Central Government giving the benefit of earlier service in a private institution for the purpose of

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granting pensionary benefits. He only relied on the action taken by the ^{Second} Respondents in issuing one circular and granting benefit to one Mr. V M Harkare vide order dated 5.12.1989, which is produced to show that the Government of Maharashtra has passed an order in favour of V M Harkare treating his earlier service in a private school as service under the Government for the purpose of getting pensionary benefits. This ~~is~~ an order issued by the Government of Maharashtra, it is not binding on Government of India. I do not know under what provision such an order will have binding effect on the Government of India. A rightly argued on behalf of Government of ^{India} Maharashtra the orders issued by the State Government necessarily apply only to State Government servants and it can never apply to a Central Government servant like the applicant.

6. It appears at one stage the applicant had approached the Maharashtra Administrative Tribunal (M.A.T.) by filing O.A.No. 3758 of 1992 for a similar direction. The Tribunal suggested to the State Government as to why it should not be ~~immediately recommended~~ to the Central Government. The Government counsel made a statement before the Tribunal that a ~~re~~commendation would be sent to the Central Government in pursuance of the order dated 3.11.93 of the M.A.T. The State Government wrote

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to the Central Government vide letter dated 2.3.1994 recommending that the earlier service from 1959 to 1966 may be taken into account by the Central Government for the purpose of pension and other benefits. However, the Central Government rejected this recommendation by letter dated 15.9.95 where they have clearly stated that the past service of the applicant in a private institution from 1959 to 1966 cannot be taken into consideration for the purpose of pensionary benefits etc. That is why the applicant has approached this Tribunal.

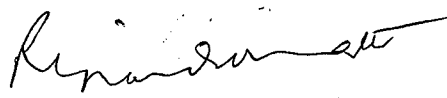
7. We are not concerned about the rules or Government Resolutions of the State Government. The applicant wants the Central Government to pay him higher pensionary benefits by adding the earlier service to his total service. The learned counsel for the applicant was not able to point out any resolution or order or rule of the Central Government conceding that any private service would also be taken into consideration while granting pensionary benefits to the Central Government servants.

If Central Government has not made such a rule then the applicant is not entitled to any benefit ^{and cannot} to add his earlier private service to ~~the pensionary~~ ^{the service under} ~~benefits under the State Government or the Central~~ Government. No relief can be given by the State

Government also for two reasons - first reason that no relief is asked for against the State Government. Even otherwise the State Government cannot be asked to give any pensionary benefits when the applicant has joined the Central Government and has retired from the Central Government service. The State Government is under no obligation to pay any pensionary benefits to the applicant. As for as Central Government is concerned there is no rule or law obliging the Central Government to treat earlier private service along with the service under State Government or Central Government for the purpose of pension.

8. For the above reasons I hold that the applicant has not made out any case to claim higher pensionary benefits from the Central Government. He is not entitled to add the private service from 1959-1966 to his service under the State Government or Central Government.

9 In the result, the application is dismissed.
No costs.


(R.G. Vaidyanatha)
Vice Chairman