

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.: 377/2000

Date of Decision : 11th January 2001

S.Y.Deshpande Applicant.

Shri S.V.Marne Advocate for the
Applicant.

VERSUS

Union of India & Ors. Respondents.

Shri R.R.Shetty Advocate for the
Respondents.

CORAM :

The Hon'ble Shri S.L.Jain, Member (J)

(i) To be referred to the Reporter or not ? Yes

(ii) Whether it needs to be circulated to other No
Benches of the Tribunal ?

(iii) Library Yes

S.L.JAIN
(S.L.JAIN)
MEMBER (J)

mrj*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.377/2000

Dated this the 11th day of January 2001.

CORAM : Hon'ble Shri S.L.Jain, Member (J)

Suresh Yeshwant Deshpande,
Rtd.Teacher,
Central Railway, Daund,
R/at: 102/11, Defence Colony,
Swargate Society,
Daund, Dist.Pune.

... Applicant

By Advocate Shri S.V.Marne

V/S.

1. The Union of India
through The General Manager,
Central Railway HQ Office,
Mumbai CST, Mumbai.

2. The Divisional Railway Manager,
Solapur Division, C.Rly.,
Solapur.

3. The Secretary,
Department of Education,
State of Maharashtra,
Sachivalaya, Mumbai.

... Respondents

By Advocate Shri R.R.Shetty

O R D E R

{Per : Shri S.L.Jain, Member (J)}

This is an application under Section 19 of the Administrative Tribunals Act,1985 seeking direction to the respondents to count 12 years and 6 months service rendered by the applicant as qualifying service for the purposes of

S.L.Jain - ..2/-

pensionary benefits, refix the retiral benefits (of the applicant by taking into consideration his past services which includes 12 years and 6 months service as stated above) and to pay the arrears along with 18% interest p.a.

2. The applicant applied for the post of Teacher in the Central Railway in 1975, selected for the same and appointed as such w.e.f. 25.6.1975. The applicant superannuated on 31.12.1998. On 24.5.1999 the applicant represented to the respondents to count his 12 years and six months' service in four recognised and aided schools as qualifying service towards pension (Annexure-'A-5'). As the respondents failed to take any action on the said representation, another representation dated 25.10.1999 (Annexure-'A-6') was sent by the applicant to the respondents. The respondents communicated vide order dated 18.6.1999 that the case of the applicant is referred to Respondent No. 2 along with office letter dated 22.5.1992 regarding allocation of pensionary liability for further action (Annexure-'A-7'). Thereafter, the Respondent No. 2 addressed a letter dated 3.12.1999 to the applicant asking him to furnish the information as to whether the applicant had joined Railways through proper channel, whether a permission was taken by the applicant from the competent authority of the school etc. (Annexure-'A-8'). The applicant furnished the requisite information to the Respondent No. 2 on 21.1.2000 (Annexure-'A-9'). The respondents have not yet passed any order. Hence, the applicant has filed this OA. on 4.5.2000.

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3. The applicant's grievance is that he was initially appointed on 11.6.1992 and served till 14.6.1992 as a Full Time Teacher in the Salve English Vidyalaya, Salve, Dist. Jalgaon. He joined Pratap Vidya Mandir, Chopde, Dist. Jalgaon on 15.6.1964 as a Teacher and worked there till 23.12.1966, further joined as Teacher, Jawaharlal Vidyalaya, Kedgaon, Tal. Daund, Dist. Pune from 5.6.1967 to 9.6.1974 and Kanya Vidya Mandir High School Ahmednagar from 10.6.1974 to 24.6.1975 respectively, all recognised and aided school by the Department of Education, State of Maharashtra.

4. On perusal of para 1 of the OA., it is apparent that there is no specific order against which the present application is made. On perusal of para 4.7, the applicant states that the respondents however, did nothing in the case of the applicant despite passage of more than 4 months time from the date of representation dated 21.1.2000.

5. The respondents resisted the claim on the ground that the claim is barred by time as the applicant is agitating the cause which has arisen on 25.6.1975 and on issuance of the Circular dated 19.7.1993 by the State Government. In para 5 of the Written Statement, the respondents have stated that this application was in process. Hence, prayed for dismissal of the OA. along with the costs.

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6. As the respondents have not passed any order after submission of the details by the applicant on 21.1.2000, the case of the applicant is based on in-action of the respondents. In fact, the applicant has agitated the matter since 24.5.1999 followed by subsequent representation dated 25.10.1999. The respondents acted upon the said representation vide Annexure-'A-7' on 18.6.1999, and vide Annexure-'A-8' 3/7.12.1999. In fact, the cause is in-action of the respondents since 24.5.1999 till filing of the OA. on 4.5.2000. Hence, the case of the applicant is covered under Section 20(2)(b) of the Administrative Tribunals Act,1985.

7. The scope of the decision in such circumstances where in-action on the part of the respondents is stated is to direct the respondents to pass the necessary orders within a reasonable time.

8. The learned counsel for the parties argued the case on merits, but keeping in view the scope of Section 20(2)(b) of Administrative Tribunals Act,1985, I am of the considered opinion that the matter need not to be decided on merits as it would amount to stepping in the shoes of the respondents and passing the orders originally but only a direction to the respondents to pass necessary orders in this respect within a reasonable time will meet the ends of justice.

9. In the result, OA. is disposed of with the direction to the respondents to pass the necessary orders in respect of applicant's claim regarding qualifying service within a period of not later than two months from the date of receipt of a copy of this order. The parties shall be at liberty to agitate the matter on merits, if an occasion arises therefor. No order as to costs.

S.L.JAIN
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MEMBER (J)

m/sj.