

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH MUMBAI

ORIGINAL APPLICATION NO:428/2000

DATE OF DECISION: 29.5.01.

Shri Sudam Krishna Ran Khambe Applicant.

Shri D.N. Deshmane Advocate for
Applicant.

Versus

Union of India and others. Respondents.

Shri R.R. Shetty for Shri R.K. Shetty. Advocate for
Respondents

CORAM

Hon'ble Smt. Shanta Shastry, Member(A)

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

Shanta F
(Shanta Shastry)
Member(A)

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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO:428/2000

Tues. Day the 29th day of MAY 2001

CORAM: Hon'ble Smt. Shanta Shastry, Member(A)

Sudam Krishna Ran Khamble
Residing at
35, Duncan Road,
Khirkee, Pune.

...Applicant.

By Advocate Shri D.N. Deshmane.

V/s

1. The Union of India Through
The Secretary,
Ministry of Defence
Nirman Bhavan
New Delhi.
2. The Chief Controller of
Defence Accounts
(Pension) Allahabad
Uttar Pradesh
3. The Controller General of
Defence Account
R.K. Puram, New Delhi.
4. The Commandent,
512 Army,
Base Workshop,
Kirkee, Pune.

...Respondents

By Advocate Shri R.R. Shetty for R.K. Shetty.

O R D E R

{Per Smt. Shanta Shastry, Member(A)}

The applicant is claiming pension for the service rendered by him in the office of the respondents where he was reemployed after he was discharged from the Armed Forces. He is aggrieved that he has been denied pension because he had not completed a minimum of 10 years service on his reemployment.

2. The case of the applicant is that on his discharge from the Indian Army he applied for reemployment. He was selected for the post of Armourer High Skilled Grade II after an interview and medical examination. He was asked to report to the office of respondent No.4 immediately but not later than 5th October 1989 vide telegram dated 27th September 1989. Accordingly the applicant reported on 30th September 1989 at 10.15 A.M. He however was not provided any work and was routed back. Later on he was called by letter dated 15th September 1989 amended as November 1989 and was appointed with effect from the 25th November 1989. The applicant having served in the post for ten years and 4 months as per discharge certificate issued by respondent No.4 ~~reti~~^{re}ieved with effect from 31st July 1999. Thereafter when he contacted the respondents for pension for the reemployment period he was not granted any pension. So he represented through advocate's notice dated 22.9.1999. His request was turned down vide letter dated 6.10.1999 addressed to his advocate.

3. The applicant contends that the respondents failed to reckon his date of joining the service of respondent No.4 with effect from 30th September 1989 when he had first reported and instead took the date of 25th November 1989 as the joining date. He was included in the select list in September 1989, was asked to report before 5th October 1989, he remained present on the 30th September 1989. He has thus rendered service of nine years and ten months, with rounding off it works out to 10 years entitling him to grant of pension. It is not his fault if he was not allowed to work from 30th September 1989.

4. The applicant is relying on a judgement of the Tribunal reported in CAT(1990) 12 ATC page 120 paras 7, ~~and~~ 10.

5. The applicant has invoked further, rule 49 sub rule 3 and rule 50 of the CCS(Pension) Rules 1972 which allow rounding off of a fraction of the year. According to Rule 49(3) in calculating the length of qualifying service fraction of a year equal to three months and above shall be treated as a completed one half year and reckoned as qualifying service. The period of three months and above but less than six months is to be treated as a completed one half year. Reckoning the service from 30th September read with the pension rules cited above the applicant would be entitled to treat his total service as 10 years and qualifies for pension.

6. The respondents contest the claim. According to them the applicant has been appointed on 25.11.1989. He was issued offer of appointment on 15.11.1989 which he accepted on 16.11.1989 and he was appointed on 25.11.1989. The day on which the Appointing Authority signsⁿ the order of Appointment that particular date is to be taken into account for the purpose of appointment. On his retirement the applicant had rendered only 9 years 8 months and 7 day's service. Thus it fell short by 3 months twenty three days. He is not entitled for pension as per rule 49(3) of the CCS Pension Rules 1972. Therefore the applicant's request has been rightly rejected.

7. I have heard the rival contentions and have perused the relevant pleadings. The applicant wants the date of 30th September 1989 to be treated as the date of his appointment because he presented himself in the office of Respondent No.4 on that day. On perusal of the telegram dated 27.9.1989 I find that the applicant was merely asked to report before 5th October 1989 in connection with his appointment. There is no mention that he has been appointed and he should therefore report for duty. He has been merely asked to be present. I cannot take the telegram as the appointment letter. Mere selection does not amount to actual appointment. It can be only after completion of formalities. I cannot therefore accept the plea of the applicant to treat his appointment with effect from 30th September 1989. In the absence of a formal offer of appointment or an appointment order the applicant's reporting to the respondent's office on 30th September 1989 cannot bestow any right of appointment with effect from the aforesaid date.

8. In view of the factual position the judgement produced by him in which a similarly placed person was allowed to count the date of reporting as the date of joining is not applicable to him.

9. Since the total service works out to nine years eight months and seven days he cannot get any benefit of rounding off a fraction of the service as per rules 49(3) and 50 of the CCS (Pension) Rules 1972. By rounding off his service would come to 9 1/2 years only.

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10. In view of the factual position above the OA fails and is dismissed without any order as to costs.

Shanta
(Shanta Shastry)
Member(A)

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