

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO.: 130 of 2001.

Dated this Tuesday, the 30th day of March 2004.

Shri S. Papaiha,

Applicant.

Shri J. M. Tanpure,

Advocate for
Applicant.

VERSUS

Union of India & Another,

Respondents.

Shri R. K. Shetty,

Advocate for
Respondents.

CORAM : Hon'ble Shri S. G. Deshmukh, Member (J).

- (i) To be referred to the Reporter or not ?
- (ii) Whether it needs to be circulated to other Benches of the Tribunal ?
- (iii) Library.


(S. G. DESHMUKH)
MEMBER (J).

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CORAM : Hon'ble Shri S. G. Deshmukh, Member (J).

S. Papaiha,
R/at. House No. 257,
Shitalanagar No. 2,
Dehu Road,
Pune - 412 101.

Applicant.

(By Advocate Shri J. M. Tanpure)

VERSUS

1. Union of India through
The Commandant,
Central A.F.V. Depot,
Kirkee,
Pune - 411 003.

2. The Commandant,
Ammunition Depot,
Dehu Road,
Dist. Pune,
Pin - 412 101.

... Respondents.

(By Advocate Shri R. K. Shetty)

O R D E R

PER : Shri S. G. Deshmukh, Member (J).

The present O.A. is filed for a declaration that the applicant is entitled for the pension as per Appendix to CPRD 58/72 in respect of his service rendered in Central Vehicle Depot, Dehu Road from 28.01.1949 to 31.03.1969 and for directing the respondents to process the applicant's pension claim to C.D.A. (Pension), Allahabad. By way of amendment the applicant prayed for a direction to Respondent No. 2 for producing service record of applicant i.e. Pichayya Pappiah and the documents which are sent to DCDA (Pension), Draupadi Ghat, Allahabad.

2. The applicant's case is that he was employed in Ex-Central Vehicle Depot, Dehu Road, from 28.01.1949 to 31.03.1969 as a Mazdoor, Ticket No. 1011. His services were terminated because of disbanment of the said Depot on 01.04.1969. It is his contention that after three years of termination of his service, orders were received for grant of pension to those terminated employees from the services in Ex. Central Vehicle Depot, Dehu Road, who would opt for pension. The applicant was called upon to exercise his option to come over to Pension Scheme and he exercised his option for pensionary benefits. It is further contended that he was entertained in the Ammunition Depot, Dehu as Mazdoor from 14.07.1969 and retired on 31.01.1980 on a pension of Rs. 50/- as per CDA (P), Allahabad P.P.O. No. G1/C/AOC/259/XVI dated 22.02.1980. He further contended that his colleagues who were also terminated from services on account of reduction in establishment, were granted pension and D.C.R.G. and the Government amount of C.P.F. was recovered from the arrears of their pension/DCRG. The applicant and 11 others were however not granted pensionary benefits as their service records were lost/misplaced in the process of shifting the documents from Dehu Road to Kirkee. It is also contended that the respondents by letter dated 01.06.1978 stated that applicant's request for grant of pensionary benefits has been referred to competent authority. Since the applicant was not receiving pension in respect of his earlier service in Central Vehicle Depot, Dehu Road, he submitted his application dated 25.01.1986 to Shri P. Chidambaram, Hon'ble Minister for State with a copy to the respondents. He approached All India Pensioners' Association, Dehu Road, who in turn requested the respondents to do the needful vide application

dated 07.10.1994. It is contended that the higher official of the Respondents informed Smt. Parvati Bandu Jadhav that her case alongwith other 10 persons of Ex. Central Vehicle Depot, Dehu Road, is under consideration with the Ministry of Defence. The applicant is entitled for pensionary benefits in respect of his service in C.V.D., Dehu Road, vide Appendix to CPR 58/72. It is contended that the first name of the applicant is Samvel Papaiha in C.V.D., Dehu Road whereas his name is Pichaya Pappiah in Ammunition Depot, Dehu Road. The applicant's wife, Marthamma expired on 15.12.1979. The applicant never received pension details and descriptive roles and thus this O.A.

3. The respondents filed their counter affidavit and contended that the applicant himself claims that he worked thereafter in the Ammunition Depot, Dehu Road under the name and style of one Pichaiah Pappiah. Then as to how the applicant is coming around to say that he is Samuel Pappiah and not Pichaiah Pappiah. The letter dated 11.05.1982 has in the wrong hands of the applicant and, therefore, he decided to come forward as Samuel Pappiah to claim benefit of pension. It is contended that the applicant is not entitled for pensionary benefits at the belated stage after a period of 32 years by saying that he had already opted for pension scheme. The respondents rely on Union of India & others v/s. Shankar [2000 (2) SC SLJ 271]. The respondents deny that the applicant is Samuel Pappiah. All the representations allegedly made are in the name of Pichaiah Pappiah. It is for the applicant to make out a case by proving that he had in fact given his option to come over to pension scheme within six months as per CPR 58/1972. Thus, the question of allegedly rendered

service w.e.f. 28.01.1949 to 31.03.1969 does not arise. The O.A. deserves to fail as a person who is other than a person who has rendered service has come forward to claim benefit of Shri Samuel Pappiah. It is also contended that applicant is claiming pension for services rendered w.e.f. 28.01.1949 to 31.03.1969 in Ex Central Vehicle Depot, Dehu Road, which had been disbanned in 1969, as temporary Mazdoor. His service has been terminated w.e.f. 01.04.1969. As he was a temporary employee and his services have been terminated, he is not entitled to pensionary benefits for the services rendered in Ex.Central Vehicle Depot, Dehu Road, as per C.C.S. (Pension) Rules, 1972. It is also contended that the case discussed in the letter dated 13.09.1986 is not about the applicant but one other individual named Pichaiah Pappiah who was employed in that depot during that period. The residential particulars of both the individuals are also different. It is also contended that the cause of action arose on 31.03.1969 and the O.A. is filed in the year 2001, i.e. after a period of more than 22 years, and hence the O.A. is barred by limitation and also suffers from lack of jurisdiction and deserves dismissal on this ground. It is contended that there is no evidence to show that the present applicant is Pichaiah Pappiah and there is no record to show that Pichaiah Pappiah opted for pension or pensionary benefits while working at Central Vehicle Depot, Dehu Road. The said Pichaiah Pappiah was a part of the Contributory Provident Fund Scheme and has already collected the benefits under the Scheme. He cannot now turn around the period of 22 years and say that he is a part of the Pension Scheme.

4. Heard the Learned Counsel, Shri J. M. Tanpure, for the applicant. He relied on the following decisions :

- (i) S.K. Mastan Bee V/s. The General Manager, South Central Railway & Another [2003(2) ATJ 255].
- (ii) S. R. Bhanrale V/s. Union of India & Others [1996 LAB I.C. 2756].

5. Heard Shri R. K. Shetty, Learned Counsel for the respondents. He relied on the following case laws :

- (i) V. K. Mehra V/s. The Secretary, Ministry of Information & Broadcasting, New Delhi [A.T.R. 1986 CAT 203].
- (ii) T. S. Jagtap V/s. Union of India & others decided on 13.10.1995 by the Bombay Bench of this Tribunal [O.A. No. 850/93].
- (iii) S. M. Jadhav V/s. Union of India & others decided on 22.12.1995 by the Bombay Bench of this Tribunal [O.A. No. 843/95].

6. Perused the papers and Service Books in the name of Shri Samuel Papaiha and Pichayya Pappiah produced by the respondents. Samuel Papaiha was employed in Central Vehicle Depot, Dehu Road, w.e.f. 28.01.1949 to 31.03.1969 as a Mazdoor, Ticket No. 1011. Pichayya Pappiah entered into the Ammunition Department as a Mazdoor on 14.07.1969 and retired on 31.01.1980. According to the applicant, Samuel Papaiha and Pichayya Pappiah are one and the same person. The applicant in the O.A. is Samuel Papaiha. Shri Pichayya Pappiah was granted pension of Rs. 50/- per month as per C.D.A. (P) Allahabad P.P.O. No. G1/C/AOC/259/XVI dated 22.02.1980. It is apparent from the Service Books of Samuel Papaiha and Pichayya Pappiah that the date of birth in both is 28.01.1920. Permanent address of the employee in both the

Service Books are also the same. The name of wife of the employee in both the Service Books are the same. Not only that, the names of the family members of the employee in both the Service Books are also the same. Thus, from all these it appears that Samuel Papaiha and Pichayya Pappiah are one and the same person.

7. Shri Samuel Papaiha worked in Central Vehicle Depot, Dehu Road, w.e.f. 20.01.1949 to 31.03.1969 as a Mazdoor. Shri Pichayya Pappiah served in the Ammunition Depot, Dehu Road, from 14.07.1969 to 31.01.1980. He retired on superannuation and was granted pension of Rs. 50/- per month for 11 years 6 months service. The applicant wanted to consider his earlier service rendered by him in the Central Vehicle Depot for pension purpose. Service Records for the service rendered by Shri Samuel Papaiha in Central Vehicle Depot, Dehu Road, shows that he was a member of the Contributory Provident Fund Scheme and had I.O.F.W.P. Fund Account No. 65505 allotted to him. The Service Book shows that he had opted to continue under existing C.P.F. benefit on 14.10.1964 as well as on 11.12.1968. The respondents in their affidavit mentioned that he was granted retirement compensation. Even there is an entry in the Service Book that an amount of Rs.1,860/- has been paid to him on account of retirement compensation. It is dated 31.03.1969. He has collected the C.P.F. benefits amounting to Rs. 3,032.75 on 24.11.1969. There is no question of granting any pensionary benefits to him for the services rendered at Central Vehicle Depot, Dehu Road as he has already collected the C.P.F. benefits for the services rendered by him. There is nothing to show that applicant exercised his

option to come over to pension scheme and exercised option for pensionary benefits. He has availed the C.P.F. benefits for previous service and retained the benefit of C.P.F. As the applicant received the C.P.F. benefits for his services in Central Vehicle Depot, Dehu Road, his services in Central Vehicle Depot, Dehu Road, cannot be counted for pensionary benefits.

8. The O.A. deserves no merit and is accordingly dismissed.
No order as to costs.

S. G. Deshmukh
(S. G. DESHMUKH)
MEMBER (J).

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