

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH BANGALORE

DATED THIS THE 18TH NOVEMBER, 1986

Present: Hon'ble Shri Ch. Ramakrishna Rao,
Hon'ble Shri P. Srinivasan,

Member(J)
Member(A)

Application No. 855/86(T)

Shri H.G. ANANTHARAMU,
Son of H.C. Gundu Rao, aged
about 40 years, Now Accounts
Supervisor in The KARNATAKA
STATE ROAD TRANSPORT CORPORATION
(KSRTC).

Applicant

(Shri Munir Ahmed, Advocate)
Vs.

1. The Union of India,
by Secretary, Ministry of
Finance, New Delhi;
2. The Controller General of
Defence Accounts,
West Block V, R.K. Puram,
New Delhi-22;

and

3. The Controller of Defence
Accounts,
Defence Department,
Teynampet, Madras-600 019.

Respondents

(Shri M. Vasudeva Rao, Advocate)

The application has come up for hearing before this
Tribunal, to-day, Member (A) made the following

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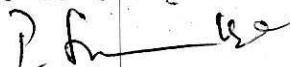
O R D E R

This is a transferred application received from the High Court of Karnataka. The applicant joined the **Defence Accounts Department (DAD)** on 31.10.1963 as permanent Auditor. On 18.1.1981, he went on deputation to the Karnataka State Road Transport Corporation (KSRTC) after having made an application for the post of Accounts Supervisor in that Corporation through proper channel, i.e., through the Head of his Department. He was on deputation with KSRTC till 24.10.1973. The DAD recalled him from deputation. ^{and} he rejoined the Department on 29.11.1973 on such recall. In September, 1976, he was transferred to Jabalpur. It appears that in January, 1977, he made an application to the ^{Controller of Defence Accounts} ~~DEAD~~ (CAD) Madras (3rd respondent) requesting that his resignation from service be accepted before 22.1.1977 waiving the notice period of three months. A copy of this letter dated 17.1.1977 has been shown to us by the learned counsel for the applicant in which he also stated that he did not want to retain any lien. He also sought permission to join KSRTC, Bangalore. The permission to resign was not accorded within the time mentioned in the letter, but eventually, he was allowed to resign w.e.f. 20.9.1977. In the meanwhile, KSRTC was holding the post vacant for him and was ~~pressing~~ him to join. By a letter dated 7.9.1977, KSRTC fixed a dead-line by which ~~he should join them~~

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and that was 30.9.1977. It was on account of this that the applicant sought resignation and was allowed to resign w.e.f. 20.9.1977. The applicant duly joined KSRTC and **thereafter** addressed the respondents requesting that he be granted retirement benefits as a person who had been permanently absorbed in a public sector undertaking (PSU). This ~~had been~~ **was** denied to him by letter dated 11.12.1980 issued by the Controller General of Defence Accounts (CGDA) (Respondent No. 2). It is this letter with which the applicant is aggrieved. He wants us to quash that letter and direct the respondents to give him pro rata retirement benefits.

2. Shri Munir Ahmed, learned counsel for the applicant, contended that under the various instructions issued by the Government of India, the Government servants who have been permanently absorbed in PSUs to which they were initially appointed with the permission of their Departments would be entitled to full retirement benefits. He pointed out that the respondents had rejected the applicant's claim on the ground that the said instructions did not apply to absorption in PSUs owned by a State Government, and that they applied only to PSUs owned by Central Government. He pointed out that none of the office memoranda on the subject (annexures A to D to the application) make a distinction between PSUs owned by the Government of India and those owned by State Governments. No doubt, the applicant had resigned from service before he joined KSRTC in 1977. But this is a purely technical point, which should have been overlooked, and he should have been treated as having been absorbed in KSRTC with the consent of the Government.

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3. Shri M. Vasudeva Rao, learned counsel for the respondents, strongly resisted the claim of Shri Munir Ahmed. He draws our attention to the definition of the expression 'Government' in Rule 3(I)(i) of the CCS (Pension) Rules, as meaning only the Central Government. This meaning should be accorded to the word 'Government' in rule 37 of the same rules, which speaks of pension on absorption in a Corporation or Company wholly or substantively owned or controlled by the Government. Therefore, persons absorbed in the State Government are not entitled to retirement benefits. Moreover, he pointed out that the retirement benefits are available only to a person who applies for a post in a PSU through proper channel, works there for some time retaining his lien in the Government, and is then absorbed. It has been no application to ~~xxxx~~ a case where a person resigns from Government service and thereafter joins a PSU.


4. We have considered the matter carefully. As pointed out by Shri Vasudeva Rao, this is ^{not} a case of a person who went on deputation to, or applied through his department for a post in, a PSU and thereafter joined that PSU retaining his lien in the Government, and was finally absorbed by the said PSU. He was no doubt with KSRTC for the period 18.1.1971 to 24.10.1973 with the permission of the department, but that permission was exhausted when he returned to the department in November, 1973, on recall. If he wanted to go back to KSRTC and still be entitled to retirement benefits, he should


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have made a fresh application through proper channel and thereafter retained his lien with the Government for sometime, after he joined KSRTC. On the other hand, what he did was to simply resign from the Government, and thereafter join service in KSRTC. Even if we overlook the contention that the expression 'Government' does not include State Governments, for the purpose of grant of retirement benefits on absorption, even otherwise we are satisfied that the applicant was not eligible for the retirement benefits under the various office memoranda issued by the respondents, as this was a plain and simple case of resignation and subsequent employment in KSRTC.

5. In the result, the application is dismissed; in the circumstances, no order as to costs.


(CH. RAMAKRISHNA RAO)
MEMBER(J)
18.11.1986.


(P. SRINIVASAN)
MEMBER(A)
18.11.1986.

dms.