

FORM NO. 21

(See rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL / C.A.C./K.M.B. BENCH

OA/TA/RA/CP/MA/PT ... 18.9/90 of 20.....

C.C. Noel

Applicant(S)

Versus

U.P. 2011

Respondent(S)

INDEX SHEET

Serial No.	DESCRIPTION OF DOCUMENTS	PAGE
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Certified that the file is complete in all respects.

R/C was deleted / destroyed

Signature of S.O.

[Signature]

Signature of Deal. Hand

29/8/12

18/9/90 (C) ①

①

8-7-90 No setting Adjourn to 24/9/90

②

24-9-90 No setting Adj to 31.10.90

③

31.10.90

Due to Holiday Adj to 4.12.90

④

4.12.90

No setting Adj to 13.12.90

⑤

2.12.90

Then Mr. J. M. K. Dethle
Then Mr. K. C. G. G. G. G.

We have heard the learned counsel for the applicant. As we go through the circular at 31/3/92, we find it necessary to ~~also~~ ascertain whether the applicant's appointment under the Central Government was in continuation of the applicant's services under the Government of U.P. or whether there was a break in between. The applicant is directed to furnish the facts in this regard by a detailed statement to the original application. The case may come up for admission on 9/12.


A. S.



V. C.

U.C. for the applicant
has not filed any statement
affidavit

S. F. A.

11/12/90

(13)

Hon'ble Mr. U.C.S., V.C.

Hon'ble Mr. A.B. Gorthi, A.M.

Dated: 3.7.1991.

Admit.

Issue notice to respondents to file C.A. within four weeks to which the applicant may file R.A. within 2 weeks thereafter.

List this case on 26.8.91 before D.R.

A.M.

V.C.

R.S.M.

*C.L.
noted & issued
12/7/91*

(14)

26.8.91
D.R.

Both the parties are absent today. Respondent to file counter Affidavit by 6/11/91. ✓

(15)

6.11.91
D.R.

Sri B. K. Chandra has filed his 'interim' counter affidavit of the respondents. He is directed to file counter by 30/1/92. ✓

(25) 15.9.92
D.R.

X/N

Both the parties are present. Rejoinder has not been filed. Applicant to file rejoinder by 16/11/92

R

(24) 16.11.92
D.R.

Both the parties are present. Applicant to file rejoinder by 13.1.93

7/11

(20) 13.1.93
D.R.

Both the parties are absent. Rejoinder has not been filed. Applicant is directed to file rejoinder by 17.2.93.

R

CR filed
not filed
16/2/93
(20) 17/2/93
D.R.

Both the parties are absent. R.A. has not been filed. Applicant is directed to file rejoinder by 20/4/93. Let the case bar F.H. on 20/4/93.

R

CR
R.A. filed
(20) 20.4.93
15/7/93
(20) 20.4.93
S.D. 13
1/10/93

OP. 189/90

Am

22/3/94

(28)

Hon. Mr. S. N. Prasad, J-M

Hon. Mr. V. K. Seth, A-M.

Shri Sanjeev Srivastava
learned counsel for the
applicant is present.
Rejoinder affidavit has
been filed and a copy
thereof has been given
to the respondents.
List this case on
11-5-94 for hearing

J-11.

CTM)

A-M-

et (28) 11-5-94
CA & RA have
already been
changed.
Submitted for 14.5.94
Hearg

No sitting on D.M. after
14.5.94

made

Lawyer absent. In distance
call for 19.8.94

19/8/94

Hon. Mr. Justice B. C. Saxena, V.C.
Hon. Mr. V. K. Seth, A-M.

A request for adjournment has
been made on behalf of the learned
counsel for the respondents. The
case is adjourned. List on
26-8-94 for hearing.

h k
A-M.

Boe
V.C.

24/1/95 Hon.Mr.Justice B.C.Saksena, V.C.
Hon.Mr. V.K. Seth, A.M.

Heard Shri A.Moin, Advocate, brief-holder
of Shri Sanjay Srivastava, learned counsel for the
applicant and Shri B.K. Shukla, learned counsel
for the respondents. Judgment dictated in the
open Court.

LS
A.M.

Boh
V.C.

CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH
LUCKNOW.

Original Application No.189/90(L).

Today, the 24th day of January, 1995.

HON'BLE MR. JUSTICE B.C. SAKSENA, VICE-CHAIRMAN.
HON'BLE MR. V. K. SETH, MEMBER (ADMINISTRATIVE)

P.C. Goel,
aged about 63 years,
son of Shri R.C. Goel,
resident of Bhardwaj
Colony, Nr. Rly. Crossing,
(Roadways) Shahjahanpur.

::: Applicant

BY ADVOCATE SHRI A. MOIN

Vs.

1. Union of India
through Secretary,
Personnel & Administrative
Reforms (Ministry of
Home Affairs),
New Delhi.
2. The Chairman,
Railway Board,
New Delhi.
3. The General Manager,
Northern Railways,
Baroda House,
New Delhi.
4. The Divisional Manager,
Northern Railways,
Moradabad, U.P.

::: Respondents.

BY ADVOCATE SHRI B.K. SHUKLA.

O R D E R (Oral).

JUSTICE B.C. SAKSENA, VICE-CHAIRMAN.

We have heard Shri A. Moin, Advocate, brief-holder of Shri Sanjay Srivastava, learned counsel for the applicant, and Shri B.K. Shukla, learned counsel for the respondents. The applicant, through this O.A., has challenged the validity of a letter dated 31-3-1982 issued by the Ministry of Home Affairs to the Secretaries to the Government of all the States. The said letter provides that in consultation with

State Government it has been decided that proportionate pensionary liability in respect of the temporary service rendered under the Central Government and State Government to the extent such service would have qualified for grant of pension under the rules of respective Government will be shared by the Governments concerned on the service share basis. The applicant, prior to his service in Northern Railway, has worked during the period 1-6-46 to 1-6-56 under the Executive Engineer, Public Works Department (U.P.). In the Counter Affidavit it has been indicated that the service rendered by the applicant in U.P.P.W.D. was against a work charge post and the same, under the rules of the State Government, did not qualify for pensionary benefits. In paragraph 4.4. of the C.A. reliance has been made on letter dated 26-5-88 issued by Executive Engineer, P.W.D., Bareilly, bringing out this position. In the R.A. this averment has not been controverted by the applicant. That being so, since the period of service rendered by the applicant in the U.P. P.W.D. was in a non-pensionary establishment and did not qualify for pension, the said period has rightly not been counted for the purpose of grant of pensionary benefits. As far as the challenge to the provision restricting the period to be counted, if it was admissible for pensionary benefits on the ground of being violative of Articles 14 & 16 of the Constitution, we find that the said contention is wholly untenable. The provisions of the letter are uniformly applicable to all concerned. No case of discrimination is made out and the challenge to the order fails. No other point has been raised. The O.A. is dismissed summarily. In the facts and circumstances of the case there will be no order as to costs.

MEMBER(A)

B. Chakraverty
VICE-CHAIRMAN.

(nair)

In the Central Administrative Tribunal at Allahabad
(Lucknow Bench) Lucknow.

Application under section 19 of the Administrative
Tribunals Act 1985.

O.A. 189/90 (L,

P. T. Gopal Petitioner

Versus

Union of India Opp. parties.

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Signature of applicant.

Received in Tribunal's office.

Date of filing :

Date of receipt by court :

Information by :

Signature of the Bench.

P.T. G
29/5/90

29/5/90

OFFICE OF THE ADMINISTRATIVE TRIBUNAL AT BANGALORE

Lucknow.

1. C. Goel, aged about 43 years, son of
Shri A. C. Goel, resident of Shardaaj Colony,
Lower Railway Crossing, Roadways, Shahjahanpur, .

..... Petitioner
Civilians.

Versus

1. Union of India through Secretary, Personnel
and Administrative reforms (Ministry of Home
affairs), ^{New Delhi} ~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~.
2. Chairman Railway Board, New Delhi
3. The General Manager, Northern Railways Broad
Gauge, New Delhi.
4. The divisional Manager, Northern Railways
Meerabad U. P.

..... Opposite parties.

Application under section 15 of the Adminis-
trative Tribunal Act, 1935.

Details of Application:

Details
of the application:

14.11.1971
14/11/71

P. C. Goel

1. Particulars of the order Legality of circular
No. OM-MO-3/20PEN(A)
against which the application 78 dated 31. 3. 1982
is made.

Issued by Department of
personnel and Administra-
tive reforms Government
of India.

2. Jurisdiction

: The applicant declares that
the subject matter against
which he wants redressal is
within the Jurisdiction
of this Tribunal.

3. Limitation : The applicant declares that

the application is within

Limitation as the cause of

action is subsisting.

(9)

Facts of the case :

1. That the applicant retired as I.C.E. (Planning) on 31. 3. 1953 having served the Railway for a period of 25 years, before joining Indian Railways the applicant had served in Uttar Pradesh Public Works department under executive Engineer Provincial Division Bareilly from 1. 6. 1943 to 1. 6. 1953. This service of the applicant with the U. P. P. W. D. has been verified by the concerned executive Engineer.
2. That the Ministry of home (department of personnel and Administrative reforms) issued a circular no. III-32/1-3/2 (P-3) dated 31.3.52 to provide the benefit of old gratuity service rendered either in the Central Government or in the State before joining the present Government from where he has retired for pension purposes.
3. That the above mention circular of home Ministry (personnel and Administrative reforms) was accepted by the Railway Board vide letter no. E (P) III-32/1-3/3 dated 13. 12. 1952.
4. That the above mentioned circular provided that the Government concerned would share the pro-ration

P. C. G. S.

(4)

under pensionary liability in respect of the temporary service rendered under the Central Government and State Government & the extent such service would have qualified for grant of pension under the rules of respective Government will be shared by the Government concerned on the service share basis so that Government servants are allowed the benefit of the counting of their qualifying service both under the Central Government and State Government for grant of pension by the Government from where they eventually retire.

3. That the application submitted that the above mentioned provisions regarding affording the benefit of temporary service either with the Central Government or with the State Government prior to joining the Government from where an employee eventually retires is violative of articles 14 ^{and 16} of the Constitution of the India in as much as the temporary services rendered by many employees following in the criterion of joining another Government having served one Government in temporary capacity shall stand ~~excluded~~ ^{excluded} from the purview of the above noted circular of home Ministry (personnel and Administrative reforms) because their temporary service with the previous Government does not qualify for the pension under

P. K. Goel

(5)

rules of the previous Government.

6. That the applicant further submits that the objective of issuing the circular was to provide the benefit of temporary service rendered with the previous Government either Central or States for the pension purposes from the Government where rank employees eventually retire. The ^{distinction} ~~distinction~~ sought to be made by providing that only those temporary services which would have qualified under rules for pension of the respective Governments should be counted in terms of the circular, is arbitrary, illegal and unconstitutional in as much as the ^{distinction} ~~distinction~~ created within similarly situated employees of the Government concerned as regards counting of temporary service rendered with another Government prior to the joining government from where the employee retires, for

extension for 5 years.
In the case of *Joint Railway Servs & 1954 with*
Chief of District Superintendant, North India,
Government of India

7. That the applicant has not been accorded the benefit of counting of temporary service rendered with the G. O. S. S. S. for 5 years on the ground that his services did not qualify for pension under the rules of G. O. S. Government.

8. That the applicant made several representations to the respondent regarding counting of his service

Joint Railway Servs & 1954 with
Chief of District Superintendant, North India,
Government of India
11/11/71

P.C. Singh

(6)

rary service rendered with the U. P. P. W. D. before
xxx joining the Railways for the pension purposes
they
but/have not been ~~expressed~~ disposed of.

6. Grounds for relief with legal provisions :

(a) That the circular no. CM-No.3/20PEN(A)
-75 dated 31. 3. 1952 is violative of
articles 14 and 15 of the constitution
of India in as much as it discriminates
similarly situated employees so far as
concerning of previous services with another
Government ~~xxx~~ whether state or Central is
concerned for pension purposes.

7. Details of remedies exhausted :

The applicant declares that he has availed
all the remedies available to him under the relevant
service rules etc. That the applicant represented to
opposite party no. 3 on 12. 3. 1954.

8. Matter not previously filed or pending with any
other court :-

The applicant further declares that he had not

or previously filed any application writ petition or suit regarding the matter in respect of which this application has been made before any court or any other authority or any other bench of the Tribunal nor any such application writ petition or suit is pending before any of them.

6. Relief Sought :-

In view of the facts and circumstances disclosed above in part 5 of the application, the applicant prays for the following reliefs :-

(a) That the circular No. C. No. 3(20) PEX(A)-78 dated 31. 3. 1982 issued by the opposite party no. 1 and adopted by the opposite party no. 2 vide letter No. F(E)-III/82 PLI/6 dated 13. 12. 1982 may be declared violative of article 14 and 13 of the constitution of India to the extent discriminates in counting of temporary services for the pension purposes.

(b) That the applicant may be granted the benefit of counting temporary service for pension purposes rendered with B. P. F. M. S. before joining the opposite party no. 4.

7. Interim order if any prayed for : No.

(8)

10. In the event of application being sent by registered post, it may be stated whether the applicant desires to have oral hearing at the admission stage and if so he shall attach a self addressed post card or inland letter at which intimation regarding the date of hearing could be sent to him ...----- Not applicable.

11. Particulars of Bank draft postal order filed in respect of the application fee :

(i) Name of issuing post Office : U.P. C.

(ii) Date of Issue : 20. 8. 1990

(iii) Payable at : Lucknow.

12. List of enclosures :

(i) The photocopy of circular No.UM No.(3) (20) PEN (A)/78 dated 31. 3. 1982.

(ii) Representation dated 12. 3. 1984 to the opposite party.

(iii) Verification of service with U.P., P.W.D. by Executive Engineer, Provisional Division Bareilly.

(8)

Verification :-

I, P. C. Goel, aged about 63 years,
son of Late Shri R. C. Goel, resident of Shardvaj,
Colony, near Railway Crossing (Roadways) Shahjahanpur
retired as I. O. O. (Planning) Meerut, do hereby
verify that the contents of paras 1 to ^{6, 7, 9, 10, 12-12} ~~12~~ are true to my
personal knowledge and those of paras ~~2, 3, 4, 5, 8~~ ¹¹ so
believed to be true on legal advice and I have not
suppressed any material facts.

Lucknow

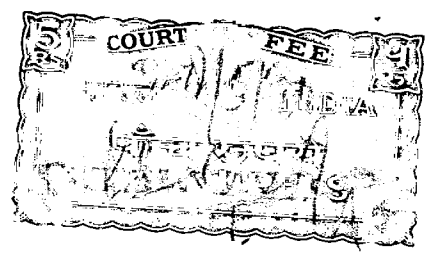
dated 22.5.1990

P. C. Goel
Signature of applicant.

वदालत श्रीमान्.....महोदय

(वादी) अपीलान्त

प्रतिवादी रेषाडेन्ट का वकालतनामा



वादी (अपीलान्त)

बनाम प्रतिवादी रेषाडेन्ट
नं० मुकदमा सन् पेशी की ता० १९ ई०

ऊपर लिखे मुकदमा में अपनी ओर से

Sanjiv Srivastava

वकील

महोदय

C-223, Nirala Nagar, Lucknow

एडवोकेट

नाम अदालत	बनाम
मुकदमा नं०	
नाम फरीकन	

को अपना वकील नियुक्ति करके प्रतिज्ञा इकरार करता हूं और लिखे देता हूं इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पेंरवी व जबाब देही व प्रश्नोत्तर करें या कोई कागज दाखिल कर या लौटावे या हमारी ओर से डिगरी जारी करावे और रूपया वसूल कर या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और और तसदीक करें मुकदमा उठावे या कोई रूपया जमा करें या हमारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रूपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद लेवे या पंच नियुक्त करें-वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूं कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकदमा अदम पेंरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी। इसलिए यह वकालत नामा लिख दिया प्रमाण रहे और समय पर काम आवे।

P.C. Goel
हस्ताक्षर

साक्षी (गवाह) साक्षी (गवाह)

दिनांक महीना सन् १९ ई०

NORTHERN RAILWAY

No. 7208/0/XXVI/Pension

Headquarters office
Baroda House, New Delhi
Date: 3.12.1982

The Divl. Railway Manager,
and Extra Divl. Offices,
Northern Railway

Pension Circular No. 87/82

P.Br. S.No. 8196.

F.A.&C.A.O. Baroda House, New Delhi.
Director of Audit

Subj: Allocation of Pensionary liability in respect of temporary
service rendered under the Govt. of India & State Govts.

A copy of Railway Board's letter No. 1111- 82 P&A dated
13.11.82 alongwith the copy of Ministry of Home Affairs Deptt. of
personnel and Administration Ref. No. 3(20)P&A/79
dated 31.3.1982 on the above subject is forwarded herewith for
information and necessary action.

DA/above.

SD/-
for General Manager(P)

Copy to:-

1. Genl. Secy., URMU 166/" Rly. Bunglow, Punchkuin Road, N. Delhi.
2. Genl. Secy., URMU, 12, Chamaford Road, New Delhi.
3. Asstt. Genl. Secy., URMU, Rly. G. No. 1/31A Linapar colony, Moradabad.
4. Shri J. P. Chaubey, President, URMU, Main Hindola, Arya Nagar, Lucknow.

Copy of Railway Board's letter referred to above

Subj:- As above.

A copy of Ministry of Home Affairs Deptt. of Personnel and
Administration Ref. No. 3(20)P&A/79, dated 31.3.82 on
the above subject is forwarded here with for information and guidance

Copy of Ministry of Home Affairs letter No. 3(20)/Pen(A)
dated 31st March, 1982

To,

The Secretaries to the
Govt. of all the states
Finance Deptt. except Govt. of Jammu and Kashmir and Nagaland

Subj:- As above.

I am directed to say that the Govt. of India have been considering
in consultation with the State Govt., the question of sharing of
a reciprocal basis, the proportionate pensionary liability in
respect of these employees who had rendered temporary service
under the Central Govt./State Govt. prior to securing posts under
the various State Govt./Central Govt. on their own volition in
response to advertisements or circulars, including those by the
state/Union Public Service commissions, and who are eventually
confirmed in their new posts. It has since been decided in con-
sultation with the State Governments that proportionate pensionary

....2/-

NORTHERN RAILWAY

liability in respect of temporary service rendered under the central Govt. and State Govt.s to the extent such service would have ~~been rendered~~ qualified for grant of pension under the rules of the respective Govt. will be shared by the Govts. concerned on a service share basis, so that the Govt. servants are allowed the benefits of counting their qualifying service both under the Central Govt. and the state Govts. for grant of pension by the Govt. from where they eventually retire. The gratuity, if any, received by the Government employee for temporary service under the Central or State Government will, however, have to be refunded by him to the Government concerned.

2. The Government servants claiming the benefit of combined service in terms of the above decision are likely to fall into one of the following categories:-

- (1) Those who have been retrenched from the service of Central/State Governments secured on their own employment under State/Central Govt. either with or without interruption between the date of retrenchment and date of new appointment.
- (2) Those who while holding temporary posts under Central/State Government s apply for posts under State/Central Govt. through proper channel/with proper permission of the administrative authority concerned.
- (3) Those who while holding temporary post under Central/State Governments apply for posts under State/Central Govt. through proper channel/with proper permission of the administrative authority concerned, and resign their previous posts to join the new appointment under State/Central Governments.

The benefit may be allowed to the Govt. servants in categories (1) and (2) above. Where an employee in category (2) is required for administrative reasons for satisfying a technical requirement, to tender resignation from the temporary post held by him before joining the new appointment, a certificate to the effect that such resignation had been tendered for administrative reasons and/or to satisfy a technical requirement, to joint with proper permission, the new posts, may be issued by the authority accepting the resignation. A record of this certificate may also be made in his service book under proper attestation to enable him to get this benefit at the time of retirement. Government servants in category (3) will obviously, not be entitled to count their previous service for pension.

3. The above arrangement will not apply to the employees of the Governments of Jammu & Kashmir and Nagaland.

4. These orders come into force with effect from the date of issue and cases of all such Government servants retiring on this date and thereafter will be regulated accordingly.

P.T.O.

5. In so far as persons serving in the Indian Audit and Accounts Department are concerned, these instructions are issued in consultation with the Comptroller Auditor General of India.

P. C. Goel

Sd/-

Under Secy. to the
Government of India.

21/11/50
10/11/50
10/11/50

Given to Shri Tek Chand Sharma
on 12-3-84.

8

24

The Divl. Rly. Manager,
N. Rly, Moradabad

Sir,

Sub:- Counting of service rendered in U.P., P.W.D
B&R Branch for the purpose of Pensionery, ~~other retirement~~
benefits, other retirement benefits

Respectfully I beg to state as under:-

That before my appointment as S.O.M on 5.6.66
at Bareilly under AEN/BE, I was employed as W/Supervisor
under Provincial Division, U.P., P.W.D, B&R Branch,
Bareilly and worked there as such from 8.6.46 to 30.5.56.
It being a Government service, the same may kindly be
counted for Pensionery and other retirement benefits
in terms of Notification issued by the Railway Board.

In support of my statement, I am enclosing herewith
the ~~original~~ copies of the requisite letters and Certificates
issued by the P.W.D Department from time to time.

The necessary verification of my service put in
P.W.D Department of U.P. Government may kindly be got
verified from the authorities concerned by obtaining
Service Records etc. This will help in my retirement
benefits.

Thanking you in anticipation,

Yours faithfully,

P.C. Goel

12/3/84

(P.C. Goel)
I.O.W (Planning),
Moradabad

D.R.M Office/N.Rly

DA/ Photostat copies
of four letters.

P.C. Goel

...

10

14

कार्यालय १२३१
निवात १०७६

कार्यालय अधिशासी अभियन्ता

प्रान्तीय खण्ड सा० नि० वि०

१०८, सिविल लाइन्स, बरेली - २४१००१

पत्रांक ... ५११/१८८५/१४

दिनांक ... ११/०८/८४

प्रमाण पत्र - १

सेवा में,

डिप्टी कमिश्नर रेल मैनेजर,
उत्तर रेलवे, मुराद बाद ।

विषय :- श्री पी० सी० गोयल की सन्धि एवं पी० पी० एच० डी०
प्रान्तीय खण्ड बरेली की सन्धि काउन्ट करने के संबंध में।
प्रमाण पत्र ।

संदर्भ :- आपका पत्र सं० ७२६ ई/एचओ/एसआर/८४ दिनांक १७-७-८४

: प्रमाण पत्र :

प्रमाणित किया जाता है कि श्री पी० सी० गोयल ने
सार्वजनिक निर्माण विभाग बरेली के प्रान्तीय खण्ड में दिनांक १-६-४८
से १-६-७६ तक वर्क सुपरवाइजर के पद पर कार्य किया है ।

अभिशासी अभियन्ता
राष्ट्रीय खण्ड, सा० नि० वि०
११/०८/८४

P. C. Gae

महोदय
११/०८/८४

Office of the Intervenor, Office of the Intervenor,
Lucknow.

M. P. No. 22/91 (2,

M. P. No. 22/91 (2,

Versus

Union of India & others

Application for mandamus.

The above named petitioner does hereby respectfully submit
under :-

1. That the petitioner-claimant has filed the above
named claim petition under section 10 of the Civil Dis-
tributive Tribunal Act 1955.

2. That due to bonafide mistake in para 2(1) (b) of
of the order) some important facts have not been mentioned
at the time of filing of the petition and as such
it is desirable that in para 2(1) (b) the following
in lines may kindly be allowed to be incorporated at
the end of the para :-

" The petitioner joined railways on 1. 6. 1955
in the office of Divisional Superintendent
Northern Railways, Lucknow "

3. That the above respondent is duly liable to be
held responsible for the nature of the order as such is liable

▲ P
T.P.
9/1/91

P.C. Goel

Wherefore, it is most respectfully prayed that this Hon'ble Court may be pleased to allow this application and permit the applicant to incorporate the amendment mentioned above in the claim petition

Lucknow

dated 7. 1. 1991.

P.C. Goel.

Petitioner
Claimant.

Verification:-

I, the above named claimant-petitioner do hereby verify that the contents of pages 1 to 3 of this ~~xxxxxxx~~ application are true to my personal knowledge and

Signed and verified this 7th day of January, 1991 in Civil Courts Compound at Lucknow.

P.C. Goel.

Petitioner
Claimant.

MP. 190/94

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW.

P.C. Goel Applicant

Versus

Union of India & others Opposite parties.

O.A. No. 189/90

APPLICATION FOR LISTING OF THE CASE

1. That the above noted case was fixed for hearing on 6.9.1993.
2. That on 6.9.1993, the case was posted for hearing on 11.10.1993.
3. That since 11.10.1993 the case has not been listed for hearing.
4. That the case is ripe for hearing as the counter affidavit and rejoinder affidavit have been exchanged between the parties.
5. That it is expedient that some date may be fixed for hearing of the case.

Wherefore, it is prayed that the above noted case may be listed for hearing.

Lucknow:

Dated: 27.1.1994.

Sanjiv Srivastava

(Counsel for Applicant)

File today
1-2-94

171 P. 190/96
IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW.

P.C. Goel Applicant

Versus

Union of India & others Opposite parties.

O.A. No. 189/90

APPLICATION FOR LISTING OF THE CASE

1. That the above noted case was fixed for hearing on 6.9.1993.
2. That on 6.9.1993, the case was posted for hearing on 11.10.1993.
3. That since 11.10.1993 the case has not been listed for hearing.
4. That the case is ripe for hearing as the counter affidavit and rejoinder affidavit have been exchanged between the parties.
5. That it is expedient that some date may be fixed for hearing of the case.

Wherefore, it is prayed that the above noted case may be listed for hearing.

Lucknow:

Dated: 27.1.1994.


Sanjiv Srivastava

(Counsel for Applicant)

SPECIAL POWER OF ATTORNEY.

In the Court of

No. 189/8-10

Plaintiff
Appellant
Petitioner

P. C. Gode

Versus

Union of India & others

Defendant
Respondent
Opposite Party

KNOW all men by these present that I S. N. Pandey, DPM, 5/3

Northern Railway, Moradabad do hereby appoint and authorise

s/Shri B. K. Shukla Advocate to appear, plead,

and act for me jointly or severally in the above noted

case and to take such steps and proceedings as may be

necessary for the prosecution and defence of the said

matter, as the case may be and for the purpose to make

sign, verify and present all necessary plaint petitions,

written statements and other documents to compromise

the suit admit the claims and to lodge and deposit money

in court and to receive payment from the court of money

deposited and to file and withdraw documents from court

and Generally to set in the promises and in all proceedings

arising thereout whether by way of execution appeal or

otherwise or in any manner connected therewith as effectually

to all intents and purposes as I could act if personally
present I hereby agree to notify and confirm whatever shall
be lawfully done by virtue of these presents.

In witness whereof I hereinto set my hand this
day of 19

Accepted
B. K. Shukla
Advocate

S. N. Pandey
(S. N. Pandey)
Northern Railway
Moradabad

In the Hon'ble Central Administrative Tribunal
Circuit Bench, Lucknow.

O.A. No. 189 of 1992.

P.C.Goel, ... Petitioner.

Versus

Union of India & Others. ... Opposite parties.

Counter Reply on behalf of opposite parties.

I, K. Jain, aged about 30 years son of Shri
R C Jain, Divisional Personnel Officer, Moradabad
do hereby solemnly affirm and state on oath as
under:-

1. That I have been duly authorised by the opposite
parties to file the instant reply on their behalf
before this Hon'ble Court. I have gone through the
contents of the case and I am fully conversant with
the facts and circumstances of the case deposed herein-
after:

2. That the contents of para 1 and 2 of the petition
need no comments.

3. That the contents of para 3 of the petition are
wrong hence denied. In reply thereto it is stated

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OSR

14/7/92

14/7/92

that the petition is barred by time as the petitioner retired in the year 1985 and accepted the pension sanctioned to him. Thereafter he remained silent for about 5 years and then he preferred the present application before this Hon'ble ~~Quart~~ Tribunal. Therefore, on this ground alone the petition deserves to be dismissed throughout.

4. That the contents of para 4 of the petition are being replied as under:-

4.1 That the contents of para 4.1 of the petition are admitted to the extent that the petitioner retired as IOE/Grade-III(550-750) on 30.6.85. The petitioner joined the Railway on 5.6.56 as a Temporary Works Mistry on pay Rs. 80/- in the grade of Rs. 80-160. As advised by the Executive Engineer, Public Works Department, vide letter dated 10.7.85 mentioning therein that the petitioner worked in PWD from 1.6.46 to 1.6.56 entirely against a work charged post. The said post was not a regular post and no pensionary benefits were available on the same. The Executive Engineer, did not accept the law of sharing the pensionary benefit as it was not admissible under the rules. A true copy of the said letter dated 10.7.85 is being annexed as Annexure No. R-1 to this Counter Reply.

4.2 That the contents of para 4.2 of the petition need no comments. However, it is stated that in view

*filed
20/2/92*

VK/

of the foregoing paragraphs of this counter reply the petitioner is not entitled for the cumulative benefit for the services rendered by him in the Public Works Department. Any thing contrary to above is denied.

4.3 That the contents of para 4.3 need no comments.

4.4 That the contents of para 4.4 of the petition are not admitted as alleged, hence denied. In reply thereto it is stated that the actual position has already been explained in the preceding paragraphs of this counter reply. However, it is further stated that the petitioner worked against a work charged post and as such the services rendered by him in the Department of Public Works Department cannot be accounted for the purposes of pensionary benefits and gratuity. The Executive Engineer, Public Works Department, Bareilly vide his letter dated 26th May, 1983 had informed the Divisional Railway Manager, Moradabad, mentioning therein that the petitioner is not entitled for the pensionary benefits etc. for the services rendered by him in the Public Works Department. The detailed reasons have been disclosed in the said letter. A true copy of the letter dated 26th May, 1977 is being annexed as Annexure No. R-II to this counter reply.

However, it would not be out of place to mention here that along with letter dated 26.9.83, a letter dated

Subj. 20/2/92

By
1/17

17.2.82 is also enclosed as Annexure of the same which ~~will~~ clearly reveals that the Accounts Officer of Accountant General's Office No.3, U.P.(Parsiksharn and Audit Department) has clearly mentioned vide letter dated 17.2.82 that the petitioner's case was examined but he is not entitled for the pensionary benefits for the period he worked with the Public Works Department. A true copy of the letter dated 17.2.82 is being annexed as Annexure No.R-III to this counter reply.

4.5 That the contents of para 4.5 of the petition are not admitted as alleged; hence denied. In reply thereto it is stated that the entire facts and circumstances of the case have already been mentioned in the foregoing paragraphs of this counter reply. In view of the same, the petitioner is not entitled at all for the pensionary benefits of the period in which he worked with the Public Works Department due to the reason that he worked against a work charged post which was not existing in the department. Therefore, that period of service cannot be accounted for the purposes of gratuity and pensionary benefits etc. Hence there is no question of giving any pensionary benefit or gratuity of this period to the petitioner. However, a true copy of the letter dated 14.4.82 of Ministry of Home Affairs, Department of Personnel

Adyain
20/2/92

and Administrative Reforms is being annexed as Annexure-
No. 3-IV to this counter reply which clearly indicates
about the persons who are entitled for the combined
pensionary benefits and gratuity etc. for his services
rendered with other Department. The category of those
persons who are entitled for the same has been mentioned
therein. The case of the petitioner does not come under
the purview of the same hence the petitioner's claim
is baseless, untenable and has got no force.

4.6 That the contents of para 4.6 of the petition are
false, fabulous and fabricated. The contents therein
have got no force as these are misconceived, hence de-
nied. In reply thereto it is stated that the entire
facts and circumstances have already been mentioned in
the foregoing paragraphs of this counter reply. It
has also been shown in the above paragraphs that as to
why the petitioner is not entitled for combined pen-
sionary benefits for his services rendered with the
Public Works Department.

4.7 That the contents of para 4.7 of the petition need no
comments. However, it is stated that the entire facts
and circumstances have already been given in the
foregoing paragraphs of this counter reply, hence no
substantial comments are being offered in this para.

4.8 That in reply to para 4.8 of the petition it is
stated that the representations of the petitioner were
properly examined.

*Adyap
20/2/92*

The matter was referred to the concerned department of State Government. The petitioner was informed regarding inability in counting his services rendered in the State Government, as the concerned department refused to accept the pensionary liability as evident from Annexure No. I-I and I-II contained with this counter reply. Any thing contrary to above is denied

5. That in reply to para 5 of the petition, it is stated that the grounds taken therein are false fabulous and fabricated as such those are not sustainable in the eyes of law, as such the petition deserves to be dismissed through-out.

6. That the contents of para 6 of the petition need no comments.

7. That the contents of para 7 of the petition need no comments.

8. That in reply to para 8 of the petition it is stated that the petitioner is not entitled for the relief sought in the para under reply. The petition/application of the petitioner deserves to be dismissed throughout, in view of the facts and circumstances narrated in the foregoing paragraphs of this counter reply.

Adyair
20/2/92

9. That the contents of para 9 of the petition need no comments.

10. That the contents of para 10 of the petition need no comments.

11. That the contents of para 11 of the petition need no comments.

12. That the contents of para 12 of the petition need no comments.

Lucknow Moradabad

Dated: 20/2/92

L. Jain 20/2/92

VERIFICATION.

I, N. K. Jain, Divisional Personnel Officer, Moradabad, do hereby verify that the contents of paras of the instant ^{counter reply} ~~case~~ are true to my personal knowledge and those of paras 2 to 12 of this counter reply are true on the basis of records ~~and those of~~ ^{documents which} ~~paras except to the legal~~ are believed to be true by me on the basis of legal advice.

Signed and verified on this day of 20.2.92 at Moradabad.

L. Jain 20/2/92

Through
(B K Shukla)

Advocate Counsel
for the opposite parties.

Dated: 20/2, 1992.

In the Court of Central Board Tribunal Circuit-
Bench- Lucknow.

CA No 189499L

P.C. No 45-405-40thms

Annexure - R 20-

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CA No 1894/98L

P.C. Court 45- 405 40th June

Annexure - R 10-

3/4

कायालय अधिशासी अभियन्ता
प्रान्तीय खंड, सांठानि विभाग
बरेली.

17/5

पत्र सं०-

1770 /-इसी-13/88

दिनांक-बरेली: मई: 26 /1988.

सेवा में,

रेल प्रबन्धक,
उत्तर-रेलवे, मुरादाबाद.

विषय-

श्री पी. सी. गोयल, काय प्रभारित वक सुपरवाइजर प्रांतीय खंड, बरेली को सविन
काउन्ट करने के संबंध में।

संदर्भ-

आपका पत्र सं०-726/इ.ओ. /एस.आर. /पी.सी. दि०-11-3-88 तथा इस काया-
लय का पत्र सं०-1643/इ.सी. 13/88, दिनांक- 17-5-88.

कृपया उपरोक्त पत्रों का अवलोकन करें। इस संबंध में सूचित करना है कि इस -
कायालय में उपलब्ध अभिलेखों के आधार पर श्री पी. सी. गोयल इस खंड के अंतगत दि. 1-6-48
से 1-6-56 तक कायप्रभारित वकयाज में वकसुपरवाइजर के पद पर कायरत रहे। यह पद उस
अवधि में नियमित पद नहीं था। काय प्रभारित अधिष्ठान में कायरत समस्त कमचारियों को
नियमित अधिष्ठान में लेने हेतु शासन के आदेश दि०-1-3-68 से प्रभावी हुए थे। चूंकि श्री
श्री पी. सी. गोयल, दि०-1-6-56 को ही सेवा में त्याग कर रेलवे विभाग में चले गये थे, एवं
इस समय तक यह रेगुलर नहीं था, अतः इस ऐसी स्थिति में उक्त अवधि में यह पेन्शन आदि
के लाभ पाने के पात्र नहीं थे।

इस संबंध में अधीक्षण अभियन्ता, तृतीय वृत्त, सांठानि वि०, बरेली के पत्र सं०-5132/19
इए-3/85, दि०-24-6-85 एवं महालेखाकार, उ०प्र०, इलाहाबाद के पत्र सं०-पी. आर. प्रथम/चार्ज
/170451/78-79/2610 दि०-17-2-82 को प्रतिलिपि भी सुलभ सं० हेतु संलग्न कर प्रेषित
की जा रही है।

संलग्न- उपरोक्तानुसार.

26.5.88

अधिशासी अभियन्ता
प्रान्तीय खंड, सांठानि वि०, बरेली.

पत्र सं०-

1-इसी-13/88

दि०- 15/88.

1-

प्रतिलिपि अधीक्षण अभियन्ता, तृतीय वृत्त, सांठानि वि०, बरेली को इस कायालय के
पृष्ठांकित पत्र सं०-1643/इसी-13/88, दि०-17-5-88 के सं० में सूचनाय प्रेषित.

अधिशासी अभियन्ता,
प्रान्तीय खंड, सांठानि वि०, बरेली.

+ अ. +
26588.

20/2/92

CA No. 1894/99 L

Section 45- not holding

Annexure - R 10-

पंजीकृत

आचार्य महासेनापति तृतीय उत्तर प्रदेश
पेंशन आर्टिस्ट विभाग
पी.आर.। अनुमान।
इलाहाबाद-211000 पो.वा.स.-113।

(74)

पी.आर.प्रथम/वा.र-170451/78-79/26।० दिनांक 17.2.82

सेवा में,

अभिजाति आचार्य,
आचार्य विभाग,
आचार्य विभाग,
लखनऊ।

360
EC13
26.2.82

विषय:- श्री राम प्रकाश, वर्क फुल सुपरवाइजर का पेंशन मामला।

संदर्भ,

आप अपने पत्रांक 2197/पी.एफ.-94/81-दिनांक 2.9.81 का
प्रतिक्रिया में। इस संबंध में आपको सूचित करता हूँ कि कार्य प्रभारित
आचार्य पेंशन बोर्ड सेवा नहीं जाती जाती है। अतः श्री राम प्रकाश की
सेवा पुस्तिका वापस की जा रही है। इसे पेंशन बोर्ड आचार्य के ह.तर
से भेज दिया जायेगी और प्रतिक्रिया नहीं है।

संदर्भ-सेवा-पुस्तिका

भवदीय,
श्री राम प्रकाश राय
लेखाधिकारी,

पी.आर.प्रथम/वा.र/26।१।

तददिनांक

प्रतिनिधि श्री राम प्रकाश 2277 इंदरपुरी मजदूर, सुभाष नगर
बरेली जो 'सुवर्ण' में निवास -

E/c 11

लेखाधिकारी,

20/2/82

23/2/82
26.5.82

26/2/82

Ref No. 894901

Section 45 - Govt. Employees

Amendment - R.O.

17A
19
Cent-99-Lars

Central Administrative Tribunal

Copy of letter No. 3(20)/Pen(A)/79 dated the 31st March, 1982 from the Ministry of Home Affairs, Department of Personnel and Administrative Reforms (received under Department of Science & Technology's letter No. 1-9/82-DCN dated the 14th, April, 1982.

Sub:- ALLOCATION OF PENSIONARY LIABILITY IN RESPECT OF TEMPORARY SERVICE RENDERED UNDER THE GOVERNMENT OF INDIA AND STATE GOVERNMENTS.

I am directed to say that the Government of India have been considering in consultation with the State Governments the question of sharing, on a reciprocal basis, the proportionate pensionary liability in respect of those temporary employees who had rendered temporary service under the central Government/State Governments prior to securing posts under the various State Governments/Central Government on their own volition in response to advertisements or circulars, including those by the State/Union Public Service Commissions, and who are eventually confirmed in their new posts. It has since been decided in consultation with the State Governments that proportionate pensionary liability in respect of temporary service rendered under the Central Government and State Governments, to the extent such service would have qualified for grant to pension under the rules of the respective Government, will be shared by the Government concerned on a service-share basis, so that the Government servants are allowed the benefit of counting their qualifying service both under the Central Government and the State Governments for grant of pension by the Government from where they eventually retire. The gratuity, if any, received by the Government employee for temporary service under the Central or State Governments will, however, have to be refunded by him to the Government concerned.

2. The Government servants claiming the benefit of combined service under the above decision are likely to fall into one of the following categories:-

- (1) Those having been retrenched from the service of Central/State Governments secured on their own employment under State/Central Govt. either with or without interruption between the date of retrenchment and date of new appointment;
- (2) Those who while holding temporary posts under Central/State Government apply for posts under State/Central Government through proper channel with proper permission of the administrative authority concerned;
- (3) Those who while holding temporary posts under Central/State Governments apply for posts under State/Central Government direct without the permission of the administrative authority concerned and resign their previous jobs to join the new appointments under State/Central Governments.

THE NORTHERN RAILWAY

- 2 -

The benefit may be allowed to the Government servants in categories (1) and (2) above. Where an employee in category (2) is required for administrative reasons for satisfying a technical requirement, to tender resignation from the temporary post held by him before joining the new appointment, a certificate to the effect that such resignation had been tendered for administrative reasons and/or to satisfy a technical requirement to joint, ~~the~~ with proper permission, the new posts, may be issued by the authority accepting the resignation. A record of this certificate may also be made in this service book under proper attestation to enable him to get this benefit ~~the~~ at the time of retirement. Government servants in category (3) will obviously, not be entitled to their previous service for pension.

3. The above arrangement will not apply to the employees of the Governments of Jammu and Kashmir and Nagaland.

4. These orders come into force with effect from the date of issue and cases of all such Government servants retiring on this date and thereafter will be regulated accordingly.

5. In so far as persons serving in the Indian Audit and Accounts Department are concerned these instructions are issued in consultation with the Comptroller & Auditor General of India.

illegible signature

IN THE CONTROL ADMINISTRATIVE TRIBUNAL LUCKNOW

O A No. 189/90



P.C. Goel

..... Petitioner

Vs.

Union of India & others

.....Opp. Parties.

REJOINDER AFFIDAVIT OF THE PETITIONER

I, P.C. Goel aged about 65 yrs. son of Sri R.C. Goel Resident of Bharatdwaj Coloney Near Railway Crossing Shahjahanpur do hereby solemnly affirm and states on oath as under :-

1. That the deponent is the petitioner in the above noted case and as such he has read counter Affidavit on behalf of Opp. parties and has understood the contents thereof which are being replied as under.
2. That the contents of para 1 & 2 of the counter affidavit need no comments.
3. That the contents of para 3 of the counter Affidavit is denied and the countents of the para 3 of the petion are reiterated as stated.
- 4.1 That the contents of para 4.1 of the counter

Contd..2..

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- 2 -

Affidavit needs no comments.

4.2 That in reply to the para 4.2 of the Counter Affidavit the contents of para 4.2 of the petition are reiterated.

4.3 That the contents of para 4.3 of the Counter Affidavit need no comments.

4.4 That in reply to the para 4.4 of the Counter Affidavit the contents of para 4.4 of the petition are reiterated.

4.5 That in reply to the para 4.5 of the content of para 4.5 of the petition are reiterated.

4.6 That the contents of para 4.6 of the Counter Affidavit are not admitted on in reply there to the contents of the para 4.6 of the petition are reiterated as stated.

4.7 That in reply to para 4.7 of the Counter Affidavit of the contents of para 4.7 of the petition are reiterated as stated.

4.8 That the content of para 4.8 of the Counter Affidavit need no comments.

5. That the contents of the para 5 of the contents are emphatically refuted and in reply thereto the contents 5 of the petition are reiterated.

6. That the content of para 6 & 7 of the Counter Affidavit need no comments.

contd..3..

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P.C. Goel

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7. That the contents of the Counter affidavit are denied. The applicant is entitled to get the reliefs claimed in the petition.
8. That the contents of para 9 to 12 of the counter Affidavit need no comments.

P.C. Goel

(Deponent)

Lucknow:

Dated : 20/4/1993.

VERIFICATION

I, the abovenamed deponent, do hereby verify that the contents of paras 1 to 8 of this affidavit are true to my own knowledge and these contained in paras are believed to be true. No part of it is false and nothing material has been concealed, so help me God.

[Signature]
20/4/93

P.C. Goel

Lucknow

(Deponent)

Dated : 20/4/ 1993.

I identify the deponent who has signed before me.

Sanjiv Srivastava

Solemnly affirmed before me on at am/pm.

by Sri P.C. Goel, the deponent, who has been identified by Sri Sanjiv Srivastava, Advocate, High Court, Lucknow.

I have satisfied myself by examining the deponent that he understands the contents of this affidavit which

CP No. 611 have been read over and explained to him.

Sanjiv Srivastava Advocate
 P.C. Goel
 20/4/93

[Signature]
Adv

Syed S. ...