

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

(S)

BOMBAY BENCH

O.A. No. 520/90
~~TAX NO~~

198

DATE OF DECISION 1.11.1991

Shri V.N.Sathe

Petitioner

Shri A.L.Kasturey

Advocate for the Petitioner(s)

Versus

Meena Chief Controller of Accounts & Anr.
Respondent

Shri A.I.Bhatkar.

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. M.Y.Priolkar, Member(A),

The Hon'ble Mr. D.K.Agrawal, Member(J).

1. Whether Reporters of local papers may be allowed to see the Judgement? *73*
2. To be referred to the Reporter or not? *N*
3. Whether their Lordships wish to see the fair copy of the Judgement? *N*
4. Whether it needs to be circulated to other Benches of the Tribunal? *N*

MGIPRRND-12 CAT/86-3-12-86-15,000

(M.Y.PRIOLKAR)
MEMBER(A).

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY.

Original Application No. 520/90.

Shri V.N.Sathe.

... Applicant.

v/s.

Chief Controller of Accounts & Anr. ... Respondents.

Coram: Hon'ble Shri M.Y.Priolkar, Member(A),
Hon'ble Shri D.K.Agrawal, Member(J).

Appearances:-

Mr.A.L.Kasturey for the applicant.

Mr.A.I.Bhatkar, for the respondents.

Oral Judgment:-

¶ Per Shri M.Y.Priolkar Member(A) Dated: 1.11.1991.

The applicant in this case ^{was} a permanent employee of the Government of Maharashtra who resigned his post on 29.7.1955 and joined Central Government service in response to an open advertisement on 1.8.1958. He retired from Central Government service on 31.12.1981. His retirement benefits were settled on the basis of qualifying service of 26 years and 5 months only under the Central Government. His prayer in this application is that his previous service under the State Government of about 6 years 9 months may also be added for the purpose of pensionary benefits.

2. It is not disputed that the entitlement of pension is determined under C.C.S. (Pension) Rules for Central Government employees. The basic condition under Rule 14 of these rules for entitlement of pension is that the service for qualifying for pension ~~where it~~ is paid for by the Government from the consolidated fund of India ^{or} of a local fund administered by that Government. Evidently, the service under the State Government ^{was} not being paid for from the consolidated fund of India and since he was not also

transferred or deputed from Maharashtra Government to Central Government, but was appointed by Central Government in response to his application sent on his own volition, the applicant will not be entitled to count his service under the State Government as service qualifying for pension under the Central Government. However, the State Government of Maharashtra as well as Central Government by mutual consent have entered into a reciprocal arrangement under which employees who have retired on or after 31.3.1982 from the service of either government will be entitled to count their previous pensionable service under the other government for pensionary benefits under the government from which they retire from service. Resolutions to this effect are dated 4.4.1982 of Maharashtra Government and 31.3.1982 of Government of India in which the cut off date fixed is 31.3.1982, i.e. only employees retiring on or after this date will be entitled to this benefit.

3. The learned counsel for the applicant argued that it will be discriminatory to fix ~~any~~ such cut off date. He contended that once the principle of counting the previous service under State Government had been accepted by the Government of India, it should have been extended to all pensioners irrespective of their date of retirement. It is difficult for us to accept this contention. There was no legal right accruing to the applicant earlier to count his service under the State Government for pensionary benefits under the Central Government and this was a concession voluntarily given by the two governments only from a particular date viz. 31.3.1982. Obviously, when the applicant had applied for the Central Government post, he had done so with the full knowledge that his service under the State Government will not qualify for pension, whereas employees joining Central Government service after 31.3.1982 would have been aware before joining that they are entitled

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to count their service under State Government also for pension. Such decisions no doubt have to be taken after taking into account the financial capacity and resources of the concerned governments. It appears that even this reciprocal arrangement has not been entered into by the Government of India and all the state government with the result that service under certain State Governments is still excluded from this benefit. We do not therefore find any merit in the contention that there has been any discrimination against the applicant. The application is dismissed with no order as to costs.

D.K. Agrawal

(D.K. AGRAWAL)
MEMBER (J)

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M.Y. Priolkar, 11/91

(M.Y. PRIOLKAR)
MEMBER (A)

B.S.M.

(P)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Review Petition No. 51/92 in
Original Application No. 520/90

Shri V.N. Sathe

... Applicant.

V/s.

Chief Controller of Accounts & Anr. ... Respondents.

CORAM: Hon'ble Shri Justice S.K. Dhaon, Vice Chairman
Hon'ble Shri M.Y.Priolkar, Member (A)

Appearance:

Shri Khambate, counsel for
the applicant.

Shri M.I. Sethna, counsel
for the respondents.

TRIBUNAL's ORDER

Dated: 4.9.92

{ Per Shri S.K. Dhaon, Vice Chairman }

This is an application seeking a review of the order dated 1.11.91 passed by a Division Bench of which one of us, Hon'ble Shri M.Y.Priolkar, was a member.

The applicant was an employee of the Government of Maharashtra. He resigned his post on 29.7.1955 and joined the Central Government services. He retired from the Central Government service on 31.12.1981. A reciprocal agreement was arrived at between the State of Maharashtra and the Central Government that pensionary benefit to those who had retired on 31.3.82 would be computed after taking into the service rendered by them with the State of Maharashtra.

Before this Tribunal, the precise question was whether the applicant was entitled to the benefit of reciprocal agreement. This Tribunal held that the applicant having retired prior to 31.3.82, he could not get any benefit of the agreement. The argument now is that the view taken by this Tribunal was against the dictum of Supreme Court in Nakara's case and, therefore,

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The judgement should be reviewed. We are satisfied that Nakara's case had no application to the facts of this case. The only factor common between the present case and the Nakara's case is that there was and there is a certain cut off date. In the present case, this Tribunal, by implication, held that the cut off date of 31.3.82 had been rationally fixed. Therefore, no ground exists for reviewing the order already passed. In our opinion, in the Tribunal's order no apparent error on the face of the record exists.

Review Petition No. 51/92 is rejected.

(M.Y.PRIOLKAR)
MEMBER(A)

S.K.DHAON
(S.K.DHAON)
VICE CHAIRMAN

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