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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 945/92

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DATE OF DECISION 6.7.93

Shri J.Y. Pagare Petitioner

Shri E.K. Thomas Advocate for the Petitioners

Versus

Union of India and others Respondent

Shri B.K. Shetty Advocate for the Respondent(s)

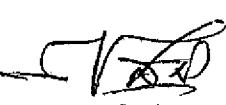
CORAM:

The Hon'ble Shri V.D. Deshmukh, Member (J)

The Hon'ble Shri

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

} *no.*


(V.D. DESHMUKH)
MEMBER (J)

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(9)
CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 945/92

Shri J.Y. Pagare
V/s.

... Applicant.

Union of India, through
the Secretary,
Ministry of Defence
Army Headquarters,
New Delhi

The Commandant
Central Ordnance Depot
Dehu Road,
Pune.

... Respondents.

CORAM: Hon'ble Shri V.D.Deshmukh, Member (J)

Appearance:

Shri E.K. Thomas, counsel
for the applicant.

Shri R.K. Shetty, counsel
for the respondents.

ORAL JUDGEMENT

Dated: 6.7.93

(Per Shri V.D. Deshmukh, Member (J))

The applicant has filed this application claiming a declaration that he was entitled to grant of Pension and further reliefs and the respondents be directed to grant full pension as admissible to the applicant alongwith the interest.

The applicant's contention is that he was employed as Clerical Supervisor at Kirke Arsanel, Kirke from 1941 to 1947 and thereafter from 1948 to 1961 he was employed under Commandant, Bombay Engineers Group Kirkee under the Ministry of Defence as a Civilian Storekeeper. He was transferred in 1961 to Central Ordnance Depot, Dehu Road as Civilian Storekeeper and worked there till superannuation on 16.1.1969.

The respondents denied the claim of the applicant on the ground that as per the then existing rules the minimum qualifying service for pension was 30 years and the applicant had put in the service of 19 years 5 months and 25 days and that too as temporary employee only. The service book has been produced by the respondents. Exhibit (N) to the written statement, which is the reply dated 11.3.76 sent by the Army Headquarters to the applicant shows that the D.P.C. held on 5.5.61 had considered the case of the applicant but he was found not fit for confirmation. As this decision was communicated to the applicant as early as 11.3.76, the claim of the applicant, that he is entitled to be made permanent is clearly barred by limitation. Although the representations were made by the applicant thereafter, this Tribunal shall not have the jurisdiction even to condone the delay in the case of the cause of action which has arisen three years prior to the commencement of Administrative Tribunal's Act.

So far as the claim of the applicant for pension is concerned, as the applicant superannuated with effect from 16.1.69, his claim would be governed by the rules which were in force at the relevant time. The respondents rely upon the Civil Services Regulations, copy of which is produced before the Court. Rule 481 in section III provides for the amount of inferior pension. It deals with the inferior qualifying service as well as the method of calculation of pension. Clause (b) of rule 481 clearly prescribes that the Compensation of invalid pension shall be payable only after completion of not less than 30 years of service. The rule thereafter provides the rates at which the pension has to be fixed.



Learned counsel for the applicant pointed out that clause 3 to rule 481 (b) provides the prescribed pension even in a case in which the service was less than two years, or in a case in which the service is two years or more but less than four years etc. However clause 3 of rule 481 (b) provides only as regards to Jemadars. Obviously the applicant cannot get the benefit of this clause. Clause 4 deals with all other cases and it is obvious that such cases would be governed under rule 481 (b) which prescribes the minimum qualifying service of 30 years.

The respondents had also pointed out from Appendix No.41 of Liberalised Pension Rules that the minimum qualifying service even in the case of an employee who took voluntary retirement or in the case of an employee who was compulsorily retired, the ~~minimum~~ ^{minimum} ~~qualifying service~~ was 30 years. As this rule prescribed the minimum qualifying service of 30 years for voluntary retirement and compulsory retirement, it is obvious that minimum qualifying service for pension by regular retirement could not be less than 30 years. The learned counsel for the applicant relied upon clause 1 of rule 2 and the annexure (b) to which it refers. Clause 1 laid down as to how the amount of superannuation, invalid and compensation gratuity and the pension was to be calculated. It does not prescribe the minimum qualifying service for pension on superannuation. Annexure A and B therefore deal with the method in which the calculation of grant of pension was to be made. This annexure cannot be read to lay down that the employee would be entitled to pension merely on completion of six monthly period mention/in column 1 of the Annexure B. These annexures are subject to rule which prescribes the minimum qualifying

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service of 30 years and unless that requirement is fulfilled the employee would not be entitled to pension.

There is nothing to show that the applicant was at any time regularised or made permanent employee. On the other hand the letter dated 11.3.76 shows that the applicant was found not fit for confirmation by the D.P.C. held in 1961.

The applicant also cannot get the benefit of the recommendations made by the IVth Pay Commission as this benefit would be available to only those government employees ^s who were in service as on 1.1.86.

In view of the reasons discussed above I find that the applicant is not entitled to the relief claimed and the application is liable to be dismissed.

The application is dismissed with no order as to costs.



(V.D.DESHMUKH)
MEMBER(J)

NS