

(13)

CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

Original Application No. 850/93  
~~XXXXXXXXXXXXXX~~  
Transfer Application No.

Date of Decision : 13-10-95

Shri T.S. Jagtap

Petitioner

Shri H.Y. Deo

Advocate for the  
Petitioners

Versus

Union of India & Others

Respondents

Shri R.K. Shetty

Advocate for the  
respondents

C O R A M :

The Hon'ble Shri M.R. KOLHATKAR, MEMBER (A)

The Hon'ble Shri

(1) To be referred to the Reporter or not ?

(2) Whether it needs to be circulated to  
other Benches of the Tribunal?

M.R. Kolhatkar  
M.R. KOLHATKAR )  
MEMBER (A).

H.

W

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

ORIGINAL APPLICATION NO.850/93.

Shri T.S. Jagtap

.. Applicant.

Vs.

Union of India & Others.

.. Respondents.

CORAM : Hon'ble Shri M.R. Kolhatkar, Member (A)

APPEARANCE :

1. Shri H.Y. Deo, Counsel  
for the applicant.
2. Shri R.K. Shetty, Counsel  
for the Respondents.

JUDGMENT :

Date : 13-10-95

(( Per : Shri M.R. Kolhatkar, Member (A) ))

In this O.A. filed under Section 19 of the  
Administrative Tribunals Act, the facts ~~are~~ as below.

2. The applicant joined Central Vehicles Depot, Dehu Road as a regular Mazdoor on 13.3.1948 and worked there till 30.6.1969, on which date he was discharged from the service as C.V. Depot, Dehu Road, was closed down. After an interruption, the applicant got a fresh appointment in Central A.F.V. Depot, Kirkee as a regular Mazdoor on 2.3.1970 and superannuated on 31.3.1992. The applicant contends that contrary to the stand of Respondents, he was not a member of the Contributory Provident Fund Scheme. According to the applicant, his colleagues got the pensionary benefits from the date of their original appointment in C.V. Depot after their retirement from A.F.V. Depot. He has therefore sought the relief to direct the

respondents to grant him the pensionary benefits after taking account of his service in Central Vehicle Depot, Dehu Road from 13.3.1948 to 30.6.1969 after condonation of the break. The matter was heard at length and was adjourned only for enabling the Respondents to produce evidence relating to the applicant having availed of C.P.F. benefits in his earlier employment. The respondents through their M.P.No.582/95 filed a copy of the receipt in regard to Rs.3227.48 by the applicant on account of final settlement of IQFWP Fund Account No.66264 on 23.12.1969. According to the respondents since the applicant had received C.P.F. benefit, no question of granting any kind of pensionary benefits for his service in Central Vehicle Depot arises.

3. The Counsel for the applicant has raised some legal submissions. According to him the applicant worked in the Government organization with a gap which is required to be treated as continuous as the applicant was not paid retrenchment compensation ~~pension~~ under Section 25H of the Industrial Disputes Act. ~~Secondly~~ In our view, the reference to I.D. Act, which appears to be an after thought is entirely without warrant. ~~It's~~ <sup>Secondly,</sup> reliance is placed on some pension rules. <sup>It's</sup> ~~contended that the~~ earlier service of the employee can be forfeited only when <sup>an</sup> employee is removed from service, in terms of Rule 24 of CCS(Pension) Rules. Since the provisions of Article 311 of the Constitution of India were not followed even though the applicant was a permanent employee the termination is void. In our view this submission does not have any substance. The applicant then submits that Rule 39/relation to compensation pension has also not been complied with, Since he was not given compensation pension. The applicant further invokes rule 18 re: counting of pre-retirement service in the case of

re-employed government servants. The further rule cited is Rule 28 re: Condonation of period between two spells of service. First of all we note that the applicant cites CCS (Pension) Rules 1972 which came into force with effect from 1.6.1972 whereas the event in question viz. break in service and re-employment was prior to the enforcement of these rules. Apart from this, applicability of rule 18 is required to be read in the context of Rule 39. Admittedly the applicant did not receive the compensation pension in terms of Rule 39. Rule 18 says that an employee retiring on compensation gratuity if he retains the gratuity, his former service cannot count as qualifying service. In this particular case, it is beyond dispute that the applicant had retained the benefit of accumulated provident fund on account of his past service. In terms of Rule 18 itself, therefore, the case of the applicant for counting of past service in C.V. Depot for pensionary benefits is not covered.

4. We are also constrained to observe that the applicant had acknowledged receipt of CPF dues as on 31.12.1969 but he continuously denied having received these dues. We note that the respondents have ~~proved~~ <sup>proved</sup> that in view of the fact that the applicant has repeatedly lied before the Tribunal, he should be saddled with heavy cost.

5. Considering the pleadings, documents on record and arguments of the parties, we are of the view that the O.A. has no merit and we therefore dismiss the same but with no orders as to the costs.

*M.R. Kolhatkar*  
( M.R. KOLHATKAR )  
MEMBER (A)