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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 474/94

Transfar Application No:

DATE OF DECISION: 9/11/94

Shri D.S.Ranade Petitioner

Shri G.S.Walia Advocate for the Petitioners

Versus

Union of India & Ors. Respondent

Sh. Suresh Kumar for Sh.M.I.Sethna Advocate for the Respondent(s)

CORAM :

The Hon'ble Shri P.P.Srivastava, Member (A)

The Hon'ble Shri

1. To be referred to the Reporter or not ? No
2. Whether it needs to be circulated to other Benches of No the Tribunal ?


(P.P.SRIVASTAVA)

MEMBER (A)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

OA.NO. 474/94

Shri D.S.Ranade

... Applicant

V/S:

Union of India & Ors.

... Respondents

CORAM: Hon'ble Member (A) Shri P.P.Srivastava

Appearance

Shri G.S.Walia
Advocate
for the Applicant

Shri Suresh Kumar
for Shri M.I.Sethna
Advocate
for the Respondents

JUDGEMENT

Dated: 9.11.1994.

(PER: P.P.Srivastava, Member (A))

The applicant joined the Central Social Welfare Board on 1.3.1972. Before that he was working in Animal Husbandry Department, Government of Maharashtra from 4.10.1957 to 28.2.1972. The applicant applied for the post in Central Social Welfare Board through the Department, i.e. Animal Husbandry Department, Govt. of Maharashtra for a direct recruitment as a Welfare Officer. After being selected, the applicant had tendered a technical resignation which was accepted by the Government of Maharashtra and the applicant was relieved to join the new service at Central Social Welfare Board.

2. The scheme of pensionary benefits was extended to the employees of the Central Social Welfare Board w.e.f. 1.11.1978 through the Government's letter dated 7.7.1979 which is placed at Ex. 'B' of the OA. The applicant requested and opted that his previous service should be treated as

qualifying service for pensionary benefits. Thereafter, the applicant sent many representations requesting to count his previous service for the purpose of pensionary benefits but he did not receive any reply. The respondents by their letters dated 18.7.1986 and 29.9.1986 informed the applicant that the matter of counting of his previous service had been referred to Government of India and that the applicant would be informed after receiving the reply from the Government. The applicant was informed by the Central Social Welfare Board on 16.2.1990 to submit a certificate from his previous employer viz. Animal Husbandry Department, Government of Maharashtra to the effect that the resignation was tendered to join the new post and that the period of service from 4.10.1957 to 29.2.1972 should be attested by the previous department to enable the respondents to settle the case of the applicant for counting the previous service. The applicant submitted a letter clarifying his position to the respondents on 22.2.1990 and thereafter made various representations for counting his previous service.

3. Meanwhile, the applicant had retired from service and he has been settled by treating him as P.F. optee and his case for counting his previous service has not yet been finalised. The applicant has approached the Tribunal for counting his previous service from 4.10.1957 to 28.2.1972. The respondents have brought out that the applicant was given chances to opt for the pension scheme but he had given conditional option and had not clearly opted for pension. The applicant was finally replied by the respondents vide Memo. dated 2.12.1985 which reads as follows :-



" With reference to his application dated 8.11.85 regarding exercising of fresh option to come over to pension scheme. Shri D.S. Ranade, Welfare Officer is informed that the question of counting of past service is a separate matter and which has nothing to do with exercising his option to come over to pension scheme. Hence, his option to come over to pension scheme should be categorical. Conditional option will not be acceptable.

He may communicate his specific options for pension telegraphically on or before 5.12.1985."

The respondents have also mentioned that his case for counting the previous service has been referred to the Government and that the decision is awaited. The applicant has later on with the rejoinder submitted a certificate from the previous employer which is placed at Annexure-'L' which reads as under :-

" This is to certify that Shri D.S.Ranade, Ex.Junior Demonstrator was working in this College establishment w.e.f. 4.10.1957 to 28.2.1972 (BDI). On his selection to the post of Welfare Officer, under the Central Government he resigned on this establishment. He applied to the said post through this office. His resignation was accepted by the Registrar, Mahatma Phule Krishi Vidyapeeth, Rahuri."

The applicant also submitted a copy of the letter dated 5.6.1971 from Bombay Veterinary College, ~~Parel~~, Bombay through which his application was ~~forwarded~~ for the post of Welfare Officer to the Central Social Welfare Board.

4. I have heard both the counsels. Counsel for the applicant has argued that the question of counting of previous service should have been decided by the Department which has not been done up-till now and that he should have been settled under pension rules in terms of his



option. The counsel for the applicant has further argued that he has submitted all the documents which are required from his previous employer and he is ready to refund the amount which he has received from the Department and he should be settled under pension rules by counting his previous service. The only argument which the counsel for the respondents has brought out is that the option submitted by the applicant was conditional and, therefore, it was rejected and the applicant has accepted his dues as a P.F. optee and has been finally settled as P.F. optee which has been accepted by the applicant. However, the counsel for the respondents has stated that his case has been referred to the Government for final decision in regard to counting of his previous service and as and when a decision is received his case will be considered.

5. I have considered the arguments of both the counsels as well as perused the records. After the applicant has submitted the letters with the rejoinder placed at Annexure- 'L' & 'M', it is clear that the applicant had applied through proper channel for the post in the Central Social Welfare Board and had to resign from his previous post to join the new post in terms of the requirement of the letter through which his application was forwarded. It is also worth noting that the scheme to give pensionary benefits to the employees of the Central Social Welfare Board was announced after the applicant had already joined the new service. I am also of the opinion that the respondents should have decided the case of the applicant concerning his previous service so that the applicant could have made an enlightened choice to opt for the pension or otherwise.



Therefore, I am not inclined to agree with the contentions of the respondents that the option of the applicant was conditional. In fact, the applicant had given his option to join the pension scheme vide his letter dated 8.11.1985 which is placed at Ex.-4 with the reply.

6. I, therefore, direct that the respondents will decide the case of the applicant regarding counting of his previous service after taking into account the documents produced by him in this OA. and the Annexures and the rejoinder within a period of three months from the receipt of this order. He will be treated as having opted for pension. The applicant would have to refund the amount which has been given to him while settling him under P.F. scheme according to the rules after his case for counting of previous service has been decided by the Department. No order as to costs.


(P.P. SRIVASTAVA)

MEMBER (A)

mrj.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GULESTAN BLDG. NO. 6, 5th FLR, PRESCOT ROAD,

FORT, MUMBAI BENCH, MUMBAI

CONTEMPT PETITION NO. 84/95 in ORIGINAL

APPLICATION NO. 474/94.

DATED THE 23RD DAY OF MARCH, 1998.

CORAM : Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman.
Hon'ble Shri P.P.Srivastava, Member (A).

D.S.Ranade

... Original
Applicant.

v/s.

1. Smt. Bhamati,
Or her Successor in Office,
Executive Director,
Central Social Welfare Board,
Samaj Kalyan Bhavan,
B-12, Institutional Area,
South of IIT,
New Delhi - 110 016.

2. Ms. Sudha Joshi,
Or her successor in Office,
Chairman,
Maharashtra State Social
Welfare Advisory Board,
Kalyan Street,
Masjid,
Bombay - 400 009.

... Contempliers.

By Advocate Shri M.I.Sethna.

TRIBUNAL'S ORDER:

Applicant in person. Respondent's counsel present.

Heard both sides. Even the applicant admits that he has received amount ^{known} for respondents. But now his grievance is that he has not been paid interest. As per the direction of the Tribunal, there is no direction to pay interest. Therefore, the dispute regarding interest cannot be ^{raised} argued by way of CP. About the correctness of the amount of ^{paid} interest, he might have to challenge the same by taking necessary steps according to law. C.P. 84/95 is discharged.

(P.P.SRIVASTAVA)
MEMBER (A)

R.G.VAIDYANATHA
VICE CHAIRMAN

abp.