

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 55/97

Date of Decision: 3.2.98

Shri K.P. Raghavan,

Applicant.

Shri P.A. Prabhakaran.

Advocate for
Applicant.

Versus

~~Govt. of India and others.~~

Respondent(s)

~~Shri Vadhavkar for Shri M.I. Sethna~~

Advocate for
Respondent(s)

CORAM:

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

Hon'ble Shri.

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

No

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

No


(P.P. Srivastava)
Member (A)

NS

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH 'GULESTAN' BUILDING NO:6
PRESCOT ROAD, MUMBAI:1

Original Application No.55/97

Tuesday the 3rd day of February 1998.

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

K.P. Raghavan,
C/o Shri Sidharth Jadhav
Income Tax Departmental
Canteen, CGO Bldg. Annexe
5th floor, M.K. Road,
Mumbai.

... Applicant.

By Advocate Shri P.A. Prabhakaran.

V/s.

Govt. of India through
The Secretary
India Meteorology Deptt.
New Delhi.

Director General of
Meteorology
Regional Meteorological
Central, Colaba,
Mumbai - 5.

... Respondents.

By Advocate Shri Vadhavkar for Shri M.I. Sethna.

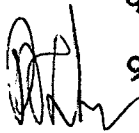
O R D E R (ORAL)

Per Shri P.P.Srivastava, Member (A)


The applicant was working in the canteen and recruited in March 1976 as Halwai. He was promoted as Manager-Salesman in 1983. Later on in terms of the judgement of the Supreme Court in Writ Petition Nos. 6189-7044 and 8246-55 C.K. Jha and others and P.N.Sharma, the applicant was treated as Central Government Employee with effect from 1.10.91 and all benefits of the Government employees were extended to him. The applicant stood retired with effect from 28.1.93 at the age of 58 years. He was paid gratuity as also Provident Fund Contribution but no pension. The applicant approached the Administration for granting him pension and opted for the same when the scheme was started. The Respondents in their sur-rejoinder in para 3 stated that in terms of the O.M. dated 16.12.93, the case

of Canteen employees retired between 1.10.91 to 25.9.93, the service rendered prior to 26.9.83 will be taken into account as qualifying service to the extent that their actual qualifying service falls short of the minimum service required for grant of superannuation pension. The circular further envisages that this will be subject to the refund of employer's share of contribution to the EPF for the period of service taken into account for pensionary benefit. The learned counsel for the respondents argued that since the applicant has not contributed towards the Provident Fund, the question of counting service for pension does not arise. The learned counsel for the applicant submits that this interpretation is not in terms of the circular dated 16.12.93. Counting of qualifying service is envisaged if the service falls short of the qualifying service and if the employee was working in the canteen before 26.9.83. The question of refund of Provident Fund would be valid only if there is contribution but it cannot be a condition for counting service before 26.9.83 for minimum qualifying service.

2. After hearing both the counsels, I am of the view that the circular dated 16.12.93 does not envisage that if there is no contribution towards the Provident Fund then the service prior to 26.9.83 cannot be counted for qualifying service. I am therefore of the view that the applicant is entitled to count the service which he has rendered before 26.9.83 to the extent to make him eligible for pensionary benefits. It is brought to my notice that the applicant is short of only a few months in his qualifying service as he has rendered for more than 9 years but less than 10 years.



3. The O.A. is therefore disposed of with the direction that the applicant is entitled to count the service prior to 26.9.83 to the extent that he may become eligible for minimum qualifying service required for grant of pension. The respondents administration will work out the pension of the applicant in terms of above directions within a period of four months and the applicant should be paid the amount accordingly. If the applicant is not paid the pension within the period of four months then he will be entitled to the interest at the rate of 10% thereafter. The O.A is disposed of with above directions. There will be no orders as to cost.


(P.P. Srivastava)
Member (A)

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