

(52)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. No. 164/91.

Dt. of Decision : 7-9-94.

P. S. Varaprasada Rao

.. Applicant.

vs

1. The Govt. of India rep.
by the Secretary,
Ministry of Personnel and Training,
Administrative Reforms and Public
Grievances and Pension,
Department of Personnel and Training
Aur Prashikshan Vikas,
New Delhi.
2. Accountant General(A.E),
Andhra Pradesh,
Hyderabad.
3. The Chief Secretary to Government
of Andhra Pradesh, (G.A.O.),
Secretariat Buildings,
Saifabad, Hyderabad.
4. The State of Andhra Pradesh
rep. by the Principal Secretary
to the Govt. of A.P.,
Revenue Department, Hyderabad.

.. Respondents.

Counsel for the Applicant : Mr. Y. Suryanarayana &
Mr. P. Naveen Rao

Counsel for the Respondents: Mr. N.V. RAMANA, Addl.CGSC,
for R-1

Mr. G. Parameswara Rao for R-2

Mr. D. Panduranga Reddy, spl.
counsel for A.P. (for R-3 & 4)

CORAM:

THE HON'BLE SHRI JUSTICE V.NEELADRI RAO : VICE CHAIRMAN
THE HON'BLE SHRI A.B. GORTHI : MEMBER (ADMN.)

(34)

Service appointed initially on probation the period of probation shall also count as qualifying service.

(2) Any period of service under the Central or a State Government rendered by a member of the Service prior to his appointment to the Service shall count as qualifying service under these rules to the extent to which such service would have counted as qualifying service for pension under the rules applicable to him prior to his appointment to the service provided that the service is otherwise continuous :

Provided that temporary or officiating service, followed without interruption by confirmation in the same or another post, shall count in full as qualifying service except in respect of periods of temporary or officiating service in non-pensionable establishment."

Explanation - "

4. Relying upon the Rule 8(2), it is urged for the respondents that only the period of service rendered by a member of the service under the Central or State Government prior to his appointment to the service shall count as qualifying service and it does not indicate that any weightage given as per the State Rules also has to be included for the service rendered under the Central or State Government for the purpose of reckoning the qualifying service of an IAS Promotee Officer for pension. But the case for the applicant is that Rule 8(2) merely states the period of service rendered under Central or State Government prior to the appointment of the concerned member in the service and as it is ~~stated to the effect that the actual~~ ^{not stated} _{is actual service} service rendered, the weightage that is given as per the State Rules for the purpose of qualifying service for pension should also be treated as service rendered for

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OA.164/91

Judgement

(As per Hon. Mr. Justice V. Neeladri Rao, Vice Chairman)

Heard Sri Y. Suryanarayana & Sri P. Naveen Rao, learned counsel for the applicant and Sri N.V. Ramana, learned counsel for R-1, Sri G. Parameswara Rao, learned counsel for R-2 and Sri D. Panduranga Reddy, learned counsel for AP State Government (R-3 & R4).

2. The applicant while working as Special Grade Dy. Collector in the Revenue Department of the Government of Andhra Pradesh, he was promoted for IAS and appointed by notification dated 4-2-1982. The applicant retired from service on 31-12-1989 on attaining the age of superannuation. It was found that the qualifying service of the applicant for pension was 29 years 5 months and 23 days. The applicant made a representation that he should be given weightage of three years as contemplated under Rule 29 of A.P. Revised Pension Rules, 1990. The same was rejected by observing that the said rule is not applicable in regard to IAS officers. Being aggrieved the applicant preferred this OA.

3. Rule-8 of the Indian Service (Death-cum-retirement Benefit) 1958 refers to the qualifying service and to the extent to which it is relevant is as under :

"8. Qualifying Service - (1) Unless provided otherwise in these rules, qualifying service of a member of the service for purposes of these Rules begins from the date of his substantive appointment to the Service :

Provided that in the case of a member of the

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..3..

the purpose of Rule 8(2). Thus, the point for consideration is as to whether any addition provided to the qualifying service as per the State Pension Rules enures to the promoted IAS Officers promoted from the concerned State Civil Service.

5. Rule 29 of A.P. Revised Pension Rules , 1988 to the extent to which it is relevant reads as under :

"Addition to qualifying service : Every Government servant who at the time of retirement on superannuation has put in a qualifying service of less than 33 years, shall be entitled to add to the qualifying service for the purpose of pensionary benefits the difference between thirty three years and the qualifying service at the time of Superannuation, such difference not exceeding three years."

Provided

6. It is manifest from the above that the period not exceeding three years can be added to the qualifying service for the purpose of calculation of pension, if the employee satisfies the condition referred to therein. It cannot be inferred therefrom that the period added has to be treated as deemed service. It is true that the period of service rendered as referred to in Rule 8(2) is not referred to as actual service. But the said proviso makes it clear that only the period of service to the extent to which it would have counted as qualifying service for pension under rules applicable at the time of retirement of the officer alone can be treated as qualifying service.

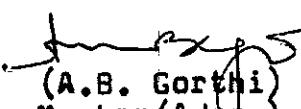
7. Literal reading of the Rule 8(2) indicates that the period of service rendered under Central or State Government prior to the appointment of that officer to

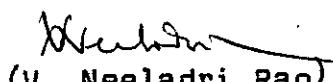


IAS has to be first determined. Then the extent to which that period is treated as qualifying service as per the relevant rules of the State Government alone had to be counted as qualifying service as per Rule 8(2). Even assuming that the period of service rendered as referred to in Rule 8(2) includes even deemed or notional service on the ground that there is no provision to exclude ~~exempt~~, still it is not shown for the applicant that there was deemed or notional service for a period of three years so far as he is concerned. As already observed, Rule 29 of the AP Revised Pension Rules 1990, merely refers to the addition to the qualifying service, and it cannot be spelt therefrom that the period added as per the said rule is one of notional or deemed service.

8. For the above reasons the contention for the applicant has to be repelled and that of the respondents ~~has~~ has to be accepted. /

9. In the result, the OA is dismissed. No costs. /


(A.B. Gorthi)
Member(Admn.)

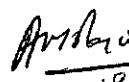

(V. Neeladri Rao)
Vice Chairman

Dated : September 7, 94
Dictated in the Open Court

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Copy to:-

1. Secretary to Government of India, Ministry of Personnel & Training, Administrative Reforms and Public Grievances and Pension, Department of Personnel & Training Aur Prashikshan Vikas, New Delhi.
2. Accountant General(A.E.) Andhra Pradesh, Hyderabad.
3. The Chief Secretary to Government of Andhra Pradesh(GAD) Secretariat Buildings, Saifabad, Hyderabad.
4. The Principal Secretary to Govt. of A.P. Revenue Dept, Hyd.
5. One copy to Mr.Y.Suryanara, Advocate, CAT, Hyd.
6. One copy to Mr.N-V.Ramana, Addl.CGSC, for R-1, CAT, Hyd.
7. One copy to Mr.D.Panduranga Reddy, Spl.Counsel for A.P.
8. One copy to Library, CAT, Hyd. (for R-3 & 4)
9. One spare.
10. One copy to All the Reporters, as per standard list of CAT.
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