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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.573/91

Date of Order: 28.1.1994

BETWEEN:

S.Srinivasulu Reddy

.. Applicant.

A N D

Union of India represented by:

1. The Secretary to Government
Ministry of Defence,
New Delhi.
2. The Engineer-in-Chief,
Army Head Quarters,
New Delhi.
3. The Chief Engineer,
Southern Command,
Pune.
4. The Director General,
Naval Projects,
Visakhapatnam.

.. Respondents.

Counsel for the Applicant

.. Mr.K.S.R.Anjaneyulu

Counsel for the Respondents

.. Mr.V.Bhimanna

CORAM:

HON'BLE SHRI A.B.GORTHY MEMBER (ADMN.)

HON'BLE SHRI T.CHANDRASEKHARA REDDY : MEMBER (JUDL.)

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Order of the Division Bench delivered by
Hon'ble Shri A.B.Gorthi, Member (Admn.).

The applicant joined the Military Engineer Service (MES) on 28.10.63 as Superintendent B/R Grade-I. He was declared Quasi-permanent w.e.f. 1.7.71. Having applied through proper channel he was selected as Assistant Executive Engineer in Hindustan Shipyards Ltd., Visakhapatnam in 1976. He was duly relieved by the D.G. Naval Project, Visakhapatnam w.e.f. 18.11.76. Consequently the applicant reported for duty at Hindustan Shipyard on 19.11.76. The claim of the applicant is for a direction to the respondents to grant him terminal benefits of prorata pension and gratuity etc. together with interest.

2. The respondents in their brief counter affidavit have stated that the benefit of grant of prorata pension is eligible only to permanent Government employees. As the applicant was only a quasi-permanent employee he was not entitled to the benefit of grant of prorata pension on his absorption in a public sector undertaking.

3. The main dispute in this case revolves round the question whether the applicant before ~~his~~ proceedings to Hindustan Shipyard was ^a permanent employee of the Government or not. It is seen that the respondents declared the applicant as confirmed w.e.f. 1.4.74. This order regularising the services of the applicant w.e.f. 1.4.74 was ^{re}rescinded subsequently in 1988 on the ground that as the employee left the Government service in the meantime, he could not have been declared permanent.

4. Mr.K.S.R.Anganeyulu, learned counsel for

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J.S.

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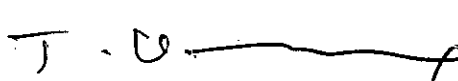
the applicant has drawn our attention to a letter from the Engineer-in-Chief's Branch, Army Headquarters dated 26.2.85 granting permanency to the applicant w.e.f. 1.4.74. It shows that similarly situated other employees were also given permanent appointment retrospectively from 1.4.74. In other words the applicant became due for permanency from 1.4.74 but the respondents took their own time to declare such permanent appointment and consequently it had to be made effective retrospectively from 1.4.74. It is often said that confirmation is an englorious uncertainty and accordingly we see nothing wrong in the respondents declaring the applicant as permanent w.e.f. 1.4.74. In this context Mr.V.Bhimanna, Learned Standing Counsel for the respondents urged that as the applicant had left the government service in 1976 there was no question of passing any order thereafter making the applicant permanent retrospectively from 1.4.74. He contended that the order declaring the applicant as permanent is ~~not~~est in the eye of law and accordingly it was subsequently cancelled by the respondents. We are unable to accept this contention of the respondents' counsel. In this regard we ^{are} supported by the ^{Bench of the} judgement of this Tribunal in T.A.81/87 to which our attention has been drawn by the applicant's counsel. In that case also the applicant therein left Government service on 4.9.72 and an order was passed in October 1973 containing the confirmation of various categories of employees including the applicant therein. In that case also the regularisation was ~~done~~ retrospectively w.e.f. 6.5.72 when the applicant was in the service of the organisation on that date. It was held that delay in issue of orders relating to confirmation should not come in the way of benefits accrueable to the applicant. Consequently

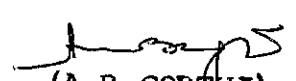
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we are of the considered view that the applicant in the present case is also entitled to be treated as having become a permanent employee w.e.f. 1.4.74. Another aspect that comes to our notice is that the Government of India, Department of Personnel and A.R. vide O.M. dated 29.8.84 decided that the service rendered by the Government servant shall be allowed to be counted towards pension under an autonomous body irrespective of whether an employee was temporary or permanent in Government.

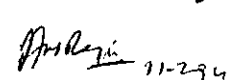
5. In view of the afore-stated we direct the respondents to treat the applicant as having become a permanent employee of the Government w.e.f. 1.4.74. The applicant ^{would be} ~~was~~ therefore be entitled to all the consequential benefits with regard to the grant of prorata pensionary/terminal benefits as applicable to persons seeking employment under public sector undertakings in accordance with the extant orders. The respondents shall comply with this direction within a period of 4 months from the date of communication of this order. The application is allowed accordingly without any order as to costs.


(T. CHANDRASEKHARA REDDY)
Member (Judl.)


(A.B. GORTHI)
Member (Admn.)

Dated: 28th January, 1994

(Dictated in Open Court)


Deputy Registrar(J)
cc.

- To
1. The Secretary to Govt., Union of India,
sd Ministry of Defence, New Delhi.
 2. The Engineer-in-Chief, Army Head Quarters, New Delhi.
 3. The Chief Engineer, Southern Command, Pune.
 4. The Director General, Naval Projects, visakhapatnam.
 5. One copy to Mr.K.S.R. Anjaneyulu. Advocate, CAT.Hyd.
 6. One copy to Mr.v.Bhimanna, Addl.CGSC.CAT.Hyd.
 7. One copy to Library, CAT.Hyd.
 8. One spare copy.
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