

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

D.A. 1150/92.

Dt. of Decision : 18/26-10-95.

P. Satyanarayana Murthy

.. Applicant.

Vs.

1. Govt. of India, Rep. by
Secretary, Dept. of Personnel,
New Delhi, Public Grievances and
Pension.

2. Secretary, Min. of Home Affairs,
New Delhi.

.. Respondents.

Counsel for the Applicant

: Mr. P.B. Vijayakumar

Counsel for the Respondents

: Mr. N.V. Remana, Addl. CGSC.

145. P. (1) (4)
20/11/95
CORAM:

THE HON'BLE SHRI JUSTICE V. NEELADRI RAO : VICE CHAIRMAN

THE HON'BLE SHRI A.B. GORTHI : MEMBER (ADMN.)

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Akhil Saxena
(अखिल सक्सेना)
(AKHIL SAXENA)

Joint Secretary
Section Officer

Ministry of Home Affairs

ORDER

As per Hon'ble Shri Justice V. Neeladri Rao, Vice-Chairman

Heard Shri P.B. Vijayakumar, learned counsel for the applicant and Shri N.V. Ramana, Standing Counsel for the respondents.

2. The applicant herein, joined as Stenographer Gr.'D' of C.S.S.S. in the Ministry of Finance on 5.3.1976. He was selected to the post of Stenographer Gr.'C' on the basis of his performance in the qualifying examination held by UPSC in the year 1979 and he was promoted to that Grade on 1.7.1980. He was declared 'Quasi-permanent' as Steno Gr.'C' w.e.f. 2.7.1983. He went on deputation on 17-10-1984 to A.P. State Non-Resident Indian Investment Corporation (herein after referred as ANRICH for short) resp which is a State Government undertaking. He was absorbed in the said corporation as an Assistant Manager w.e.f. 1.2.1986. After the said absorption of the applicant in ANRICH, the Central Government had remitted pension contribution and other amounts for the period prior to 1.2.1987. Later, R1, the Central Government, paid Rs.15,000/- as service gratuity under Rule 10(1)(b) of the CCS(Temp. Service)Rules, 1965. As the request of the applicant to R1 for payment of pro-rata pension was rejected on the ground that the applicant was not confirmed in the Central Government by the date of his absorption at ANRICH, this OA was filed praying for a direction to the respondents to grant pro-rata pension to the applicant basing on the service rendered with all attendant ~~max~~ and consequential benefits.

3. OM No.4(5)/Pension Unit/79 dated 9th Jan., 1984 of Govt. of India, Deptt. of Pers. & A.R., is relied upon for the respondents that the benefit of pro-rata pension can be

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availed only by the Central Government employees who were confirmed by the date of their absorption in the Public-Sector undertakings of Central/State Governments. But,

OM No.28-10/84-Pension Unit dated 29th August, 1984

of Govt. of India, Deptt. of Pers. & A.R. lays down that the pro-rata pension has to be provided even in regard to the temporary central Government Servants, who are absorbed in the Central Autonomous bodies and vice-versa. By virtue of reciprocal arrangement as per OM No.28(10)/84-P & PW/Vol.II dated 17.6.1986 of Deptt. of Pen. & Pen.Welfare, the benefit is applicable even in regard to temporary employees of the Central Government who are absorbed in the autonomous body/Statutory body of the AP State Government on or after 17.6.86. It is made clear therein that it is not applicable in regard to a public undertaking of the AP State Government. The ANRICH is a Public undertaking of the AP State Government. Hence, the applicant who was absorbed in the ANRICH, which is a Public Undertaking of the State Government, cannot claim the benefit of the OM dated 17.6.86 referred to herein before if he has to be treated only as a temporary servant of the Central Government by the date of his absorption in ANRICH.

4. Learned counsel for the applicant is relying upon Judgement report in (1994) 28 ATC 70 (Praduman Kumar Jain Vs Union of India) in support of his contention that an employee who worked in a substantive capacity for long duration, cannot be treated as a temporary employee.

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(AFZIL SAKHEWAL)
कानूनी
Officer

मंत्रालय
of Home Affairs

5. The applicant Shri PK Jain referred to, resigned from the Central Government after working there for 13 years and joined NTPC. His claim for pro-rata pension as per OM. No. 2F-16/5/85 Est(C) dated 31.1.1986 was rejected on the ground, that he was not confirmed in the Central Govt., by the time, he joined NTPC. That order of the department was confirmed by the Bench of the CAT.

6. But, the Apex Court held in paras 12 and 13 of its Judgment as follows:

*12. Although the combined reading of the two office memorandums reproduced above support the appellant's contention that he stood confirmed in the post of Assistant Meteorologist before he resigned the Central Government service but it is not necessary for us to go into the effect of the memorandums. Examining the facts and circumstances of this case in the light of the law laid down by this Court in Baleshwar Dass case, the only conclusion which can be drawn is that the appellant was working as Assistant Meteorologist in a substantive capacity.

13. We therefore hold that the appellant had been appointed in a substantive capacity against a permanent post of Assistant Meteorologist and is therefore, entitled to pro-rata pension and other terminal benefits in respect of the service rendered by him under the Central Government.*

7. This is a case where the applicant joined as Stenographer Group-D in the Ministry of Finance on 5-3-76. He was directly recruited as in-service candidate to the post of Stenographer Gr.C on 2-7-80, as per the selections held by the UPSC. He was declared quasi-permanent as Stenographer Gr.C with effect from 2-7-83. He went on deputation on 17-10-84 to ENRICH and there he was

contd....5.

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अमृतसारा अधिकारी
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absorbed on 1-2-86. Thus he worked for about 8½ years in the Ministry of Finance before he went on deputation. It is not a case where he worked in a temporary post for he was a direct recruitee to the post of Stenographer Gr.C. Thus he worked in substantive capacity. So we feel that the principle laid down in P.K.Jain's case is equally applicable with regard to the applicant also and hence even though he was not confirmed in the post of Stenographer Grade-C by the time he was absorbed in ENRICH he is also entitled to the pro-rata pension as per OM dated 29-8-84.

2.

In the result, the OA is ordered as under:
The respondents have to pay the pro-rata pension to the applicant. If the arrears of pro-rata pension are not paid by 31-3-1996, the same will carry interest at the rate of 12% per annum from 1-4-1996.

CERTIFIED TO BE TRUE COPY

Date.....15/11/91

Court Officer
Central Administrative Tribunal
Hyderabad Bench
Hyderabad

To

MVL/MHB

1. The Secretary, Dept.of Personnel, Public Grievances and Pension, Govt.of India, New Delhi.
2. The Secretary, Ministry of Home Affairs, New Delhi.
3. One copy to Mr.P.B.Vijayakumar, Advocate, CAT.Hyd.
4. One copy to Mr.N.V.Ramana, Addl. OGSC. CAT.Hyd.
5. One copy to Library, CAT.Hyd.
6. One spare copy.

pvm.

Hajera
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अनुपाग विविकारी
Section Officer
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