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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. 508/94.

Dt. of Decision : 9-2-95.

M. Narasimhan

.. Applicant.

Vs

1. UNION OF INDIA, REP. BY
its General Manager,
SC Rly, Rail Nilayam,
Secunderabad.

2. Sr. Divl. Personnel Officer,
SC Rly, Hubli,

Respondents.

Counsel for the Applicant : Mr. N. Raman

Counsel for the Respondents : Mr. G.S. Sanghi, SC for Rlys.

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

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O.A. 508/94.

Dt. of Decision : 09-02-1995.

ORDER

(1) As per Hon'ble Shri A.B. Gorthi, Member (Admn.) (1)

The applicant is an Ex-Serviceman. His claim in this OA is for a direction to the respondents to count his former military service from 08-09-1948 to 24-10-1954 for the purpose of determining his pension on his retirement from his re-employment with South Central Railway.

2. The applicant having served with the army for about more than six years was discharged on completion of tenure and soon thereafter he joined the railways on 05-12-1955. He retired on 31-12-1982 on attaining the age of superannuation. His request for taking into account his former military service for the purpose of calculating his pensionable service were not considered favourably by the respondents. Hence this OA.

3. This application was admitted on 02-06-1994. Thereafter several opportunities were given to the respondents to file a reply affidavit, but they did not do so, for reasons best known to them. I therefore presume that the respondents have nothing to say by way of refuting the averments made in the OA.

4. I have heard learned counsel for the applicant and perused the material on record. From Annexure-4 to the OA, which is a certificate of verification of military service in respect of the applicant, it would be evident that:-
(a) the applicant served the army from 01-09-1944 to 24-10-1954
(b) that he was paid service gratuity; and
(c) that he was not paid any pension. The record does not indicate the exact amount of gratuity received by the applicant.

5. The rule position governing the case of this nature is clear. An ex-serviceman would be entitled to claim that his past military service should be taken into consideration for the purpose of determining his service for pension on his re-employment in civil service provided, however, he ceases to draw his pension and refunds the amount of pension, commuted value of pension and the DGRG/ service gratuity. In the case of the applicant it is

The question of refunding such amount does not therefore arise. He was however liable to refund the amount of

service.

6. Although, a military pensioner has option to continue to draw the pension or to surrender the same and claim counting of his former service for the purpose of pension on his re-employment, in an old case of this nature it would be futile to initiate an enquiry ^{at} ~~on~~ this belated stage to find out whether or not the employee was informed of the requirement of exercising such option and whether he did exercise such option ^{or} ~~or~~ not. In any case, if the applicant had been duly informed, he would have naturally opted to surrender the gratuity amount, as it would be very meagre, and claimed for counting of his former service for the purpose of pension after his re-employment.

7. Notwithstanding the fact that the respondents have not filed a reply affidavit, even from the averments made in the OA, as supported by the annexures attached thereto, it would be evident that the claim of the applicant is genuine and has to be allowed as per the extant rules as discussed above.

8. In the result, the OA is allowed and the respondents are directed to take immediate action to ascertain from the appropriate military authority the quantum of gratuity, if any, paid to the applicant and inform the applicant accordingly. The applicant shall thereafter surrender the said amount to the

respondents shall within a period of 2 months thereafter re-calculate his pension and ~~fax~~ accordingly with all consequential benefits.

9. No order as to costs.

(A.B. Goythi)
Member (Admn.)

Aradhana 14-285
Dated : The 9th February 1995. Deputy Registrar (Judl.)
(Dictated in Open Court)

Copy to:-

1. General Manager, S.C.Railway, Union of India, Railnilayam, Secunderabad.
2. Sr. Divl. Personnel Officer, S.C.Railway, Hubli, Karnataka State.
3. One copy to Sri. N.Raman, advocate, CAT, Hyd.
4. One copy to Sri. G.S.Sanghi, SC for Rlys, CAT, Hyd.
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

THE HON'BLE MR. A. V. HARIDASAN : MEMBER (D)

AND

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

DATED : 9/2/95

M.A/R.P/C.P.No.

O.A. NO.

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Admitted and Interim directions
issued

Allowed

Disposed of with Directions

Dismissed

Dismissed as withdrawn

Dismissed for Default.

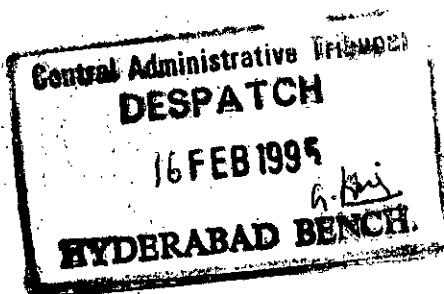
Rejected/Ordered

No order as to costs.

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