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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH HYDERABAD.

O.A.NO.750 of 1995.

Between

Dated: 24.1.1996.

C.C.S.Reddy

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Applicant

And

1. Union of India, represented by the Secretary, Ministry of Labour, Shram Shakti Bhavan, Rafi Marg, New Delhi.
2. The Chief Labour Commissioner(Central) Shram Shakti Bhavan, Rafi Marg, New Delhi.

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Respondents

Counsel for the Applicant : Sri. William Burra

Counsel for the Respondents : Sri. N.V.Raghava Reddy, Adml. C

CORAM:

Hon'ble Mr. A.B.Gorthi, Administrative Member

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O.A.No.750/95

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Date of Order: 24.1.96

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

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The claim of the applicant is that he is entitled to the benefit of addition of 5 years to his qualifying service.

2. The applicant was initially appointed as a Labour Enforcement Officer (Central) a Class II Gazetted post on 12.10.68. Later, he was selected by the U.P.S.C. for appointment as Assistant Labour Commissioner (Central) which appointment he assumed on 4.11.81 immediately after being relieved from his previous post. In 1987 Central Labour Service was constituted of which the applicant was a member. Having served in the Central Labour Service for over 13 years he retired on 28.2.95 in the post of Regional Labour Commissioner (Central). His claim for the benefit of 5 years addition to his qualifying service <sup>has</sup> ~~having~~ been rejected by the respondents, hence this OA.

3. The respondents in their reply affidavit have advanced the plea that the relevant recruitment rules for appointment to the post of Assistant Labour Commissioner did not provide for the benefit of added years of service, as stipulated in Rule 30 of CCS (Pension) Rules. They have also stated that the Labour Officers (Central Pool) Recruitment and Conditions of Service Rules, 1951 <sup>ceased</sup> ~~was~~ to be operative with the constitution of the Central Labour Service in 1987. Further the respondents contend that the applicant prior to his retirement did not exercise his option in favour of claiming the benefit under Rule 30 (1) of the Pension Rules.

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4. Heard learned counsel for both the parties. Firstly it is contended on behalf of the applicant that the Labour Officers (Central Pool) Recruitment and Conditions of Service Rules 1951 provided for granting the benefit of added service to those recruited as Labour Officers (Central Pool). Although the applicant was recruited as an Assistant Labour Commissioner (Central), the said post is interchangable with that of Labour Officer (Central Pool) and that the applicant had infact worked as Labour Officer (CentralPool) from August 1989 to June 1992. Accordingly, it is contended before me, that the benefit that was available to Labour Officers (Central Pool) could not be lawfully denied to Assistant Labour Commissioner (Central) and such denial would offend the principle of equality. In this context the respondents states that with the formation of Central Labour Commissioner the aforestated Labour Officers (Central Pool) Recruitment Rules <sup>cease</sup> ~~sees~~ to be operative. There is however no denying the fact that the Central Civil Service (Pension) Rules, 1972 applied to the applicant. There is considerable merit in the argument advanced by the applicant's counsel that the benefit available to a Labour Officer (Central Pool) cannot be denied to Assistant Labour Commissioner (Central), because both the posts are interchangable and are apparently on the same footing. Notwithstanding the same I am of the view that the applicant's case is to be examined in terms of Rule 30 (1) of the CCS (Pension) Rules. The same is reproduced below:-

"Addition to qualifying service in special circumstances:-

(1) A Government servant who retires from a service or post after the 31st March, 1960, shall be eligible to add to his service qualifying for superannuation pension (but not for any other class of pension) the actual period not exceeding one-fourth of the length of his service or the actual period by which his age at the time of recruitment exceeded twenty-five years.

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whichever is less, if the service or post to which the Government servant is appointed is one—

(a) for which post-graduate research, or specialist qualification or experience in scientific, technological or professional fields, is essential; and

(b) to which candidates of more than twenty-five years of age are normally recruited:

Provided that this concession shall not be admissible to a Government servant unless his actual qualifying service at the time he quits Government service is not less than ten years.:

Provided further that this concession shall be admissible only if the recruitment rules in respect of the said service or post contain a specific provision that the service or post is one which carries the benefit of this rule".

5. The last proviso to Rule 30(1) which stipulates that the concession under Rule 30 (1) would be admissible only if the Recruitment Rules contained a specific provision that that service or post is one which carried the benefit of the rule came into existence some-time in 1988 and was not, in 1981 when the applicant was recruited as an Assistant Labour be made applicable. ~~The case of the applicant cannot be made applicable retrospectively to the case of the applicant.~~

6. In a similar case (OA.365/94) decided by this Bench of the Tribunal on 6.12.95 the same issue was considered thus:-

"As regards the stand taken by the respondents, what I note is that the issue of giving the benefit of added years of service to specially qualified or experienced personnel came up for consideration before the III Par Commission. The commission after examining Rule 30 of CCS(Pension) Rules which is in pari materia with rule 2423-A of IREC, Vol.II observed that "the existing provision for giving the benefit of added years of service to specially qualified or experienced personnel appointed to posts where these qualifications are necessary in the public interest is salutary and should continue". The commission however, recommended that a suitable provision should be incorporated in the relevant recruitment rules so that the benefit is automatically available to all the

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candidates who are recruited in accordance with the provisions of the rules and it should not then be necessary to take a decision in each individual case at the time of recruitment. The commission also recommended that in the advertisement issued by the Union Public Service Commission for recruitment to such services and posts it should be mentioned that this benefit would also be available so that candidates of better quality are attracted to the Government service.

Accepting the above recommendations of III Pay Commission the departments of government amended the relevant rules, such as CCS (Pension) Rules and Railway Pension Rules. Obviously, the amendment will have no retrospective application whatsoever. Those who were recruited prior to the amendment when obviously the recruitment rules would not have a provision as recorded by the IIIrd Pay Commission cannot be denied the benefit of advantage as was then admissible under the then relevant rules".

7. In view of what is stated above there can be no doubt that the case of the applicant has to be examined in the light of the contents of Rule 30 (1) of CCS Pension Rules, as it existed prior to its amendment in 1988.

8. Another plea taken by the respondents that the applicant did not opt for the benefit of Rule 30(1) of the CCS (Pension) Rules prior to his retirement does not find support from any statutory provision or administrative instruction. None has been shown to me to support the last plea taken by the respondents. Hence the same is liable to be rejected.

9. In the result, the OA is allowed and the respondents are directed to give the applicant the benefit of addition to his qualifying service in terms of Rule 30(1), as it existed prior to its amendment in 1988 and keeping in view the service rendered by the applicant as Labour Enforcement Officer from 12.10.68 to 3.11.81 prior to his recruitment to the post of Assistant Labour Commissioner (Central). After adding the required number of years of <sup>his qualifying</sup> service

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the pensionary entitlements of the applicant will be recalculated and revised. Consequential arrears accruing there from shall be paid to the applicant. This shall be done within a period of 4 months from the date of communication of this order. No costs.

  
( A.B.GORTHY )  
Member (Admn.)

Dated: 24th January, 1996

( Dictated in Open Court )

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Deputy Registrar (Judl.)

Copy to:-

1. The Secretary, Ministry of Labour, Union of India, Shram Shakti Bhavan, Rafi Marg, New Delhi.
2. The Chief Labour Commissioner (Central), Shram Shakti Bhavan, Rafi Marg, New Delhi.
3. One copy to Sri. William Burra, advocate, 5-76, St.No.16, S.V.Colony, Saroornagar, Hyd-36.
4. One copy to Sri. N.V.Raghava Reddy, Addl. CGSC, CAT, Hyd.
5. One copy to Library, CAT, Hyd.
6. One spare copy.

Rsm/-

24/96  
OA-750795  
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH HYDERABAD.

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

~~HON'BLE SHRI~~

DATED: 24/1/96

ORDER/JUDGMENT

M.A.NO./R.A./C.A.NO.

O.A.NO.

IN

750795

ADMITTED AND INTERIM DIRECTIONS ISSUED  
~~ALLOWED~~

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

~~ORDERED/REJECTED~~

~~NO ORDER AS TO COSTS~~

\* \* \*

No spare copy

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केन्द्रीय प्रशासनिक अधिकरण Central Administrative Tribunal श्रेयण/DESPATCH - 8 FEB 1996 हैदराबाद न्यायपीठ HYDERABAD BENCH
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