

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH  
AT HYDERABAD

OA.1329/96

dt.30-6-97

Between

K. Narasimha Rao : Applicant

and

1. Development Commissioner  
Small Scale Industries  
Govt. of India, 7th Floor  
Nirman Bhavan, New Delhi-11

2. Director  
Small Industries Service Instt.  
Govt. of India, Narsapur X Road,  
Balanagar, Hyderabad 37 : Respondents

Counsel for the applicant : T.P. Acharya  
Advocate

Counsel for the respondents : V. Bhimanna  
Sr. CGSC

CORAM

HON. MR. H. RAJENDRA PRASAD, MEMBER (ADMN.)

OA.1329/96

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Judgement

Oral order (per Hon. Mr. H. Rajendra prasad, Member (Admn))

Heard Sri T.P. Acharya for the applicant and Sri V. Bhimanna for the respondents.

1. Despite many opportunities provided to the respondents they have not chosen to file any counter till the time of hearing this case today. However, submissions made by Sri V. Bhimanna, learned Addl. Standing Counsel, on behalf of the respondents were duly heard.
2. The applicant, while working as Daftry in Small Industries services Institute, Hyderabad, applied for the post of Ferro-Printer-cum-Gestetner Operator in the Central Institute of Tool Design. The application was forwarded to the concerned authorities through normal channels. On being asked if he was willing to resign his present post if selected by CITD for the post of Ferro Printer-cum-Gestetner Operator, the applicant duly gave his consent for the same and was thereafter selected for the post applied <sup>for</sup> and joined the same after resigning his post as Daftry in SISI.
3. His grievance in the present OA is that his claim for pro-rata terminal benefits for the service rendered (13 years) in the Small Industries Service Institute was rejected by R-2. The ground ascribed by the respondents for non-acceptance of the applicant's claim was that he did not fulfil the terms and conditions stipulated in the Ministry of Finance OM 26(18)-E-V(8)/75 dated 8-4-1976. In the said memo detailed guidelines were spelt out for the grant of pro-rata retirement benefits to Central Government Servants permanently transferred to autonomous bodies, Public Sector Undertakings etc. The provisions of the memorandum were made applicable

21/30/4

to permanent Central Government employees regularly absorbed in the Central Public Sector Undertakings in cases where such absorption had taken place prior to 8-11-1968. (In the present case, the applicant joined the CITD on 4-11-1970 viz., after 8-11-1968). It was also clarified that the decision contained in the said memorandum would apply only when the permanent transfer of an official from the Government to Public Sector Undertaking was in public interest. In other cases it was made clear that the Government could not accept any liability by paying retirement benefits for the period of service rendered by Government servant before his transfer to the Public Sector Undertaking. The learned Additional Standing Counsel maintained that the applicant's transfer from SISI to CITD was not in public interest because he had in fact tendered an unconditional resignation. Therefore, it is maintained, ~~and~~ he is not entitled to pro-rata benefits prayed for.

4. The learned counsel for the applicant drew my attention to the Government of India, Department of Personnel and Administrative Reforms OM No.1/72-Estt.(C) dated 21-4-1972 wherein it was clarified that retention of lien by a Government servant on his parent Department for a period of 2 to 4 years after his joining an Undertaking, which was stipulated in the OM dated 21-4-1972, was not essential in order to become entitled to retirement benefits if <sup>a</sup> permanent Government servant secures employment in a Public Sector Undertaking by applying through proper channel and submits his resignation thereafter. It was clarified that such resignation may be accepted straight-away and necessary proposals for grant of retirement benefits

8/11/71

for the period of service rendered in the Government were to be examined. It was also clarified that the past cases were also to be reviewed in the light of this clarification.

5. The learned counsel for the applicant also drew my attention to the judgement in Civil Appeal No.4670/94 decided on 11-7-1974 by Hon. Supreme Court(SLJ(9)SC 48) P.K. Jain Vs. Union of India, where Their Lordships held that where an officer has rendered more than 10 years of service in the Central Government, <sup>would count as qualifying service</sup> such service for the purposes of pension etc., provided that Rule 13 and 14 of CCS (Pension) Rules, 1972, are satisfied.

6. Apart from this the Department of Personnel have issued instructions vide OM No.28016/4/76 Estt.(C) dated 25-3-1977 removing the distinction between "absorption in public interest" and those who got absorbed on their own volition". It was clarified therein that the question of removing the distinction between Government servants who got absorbed in an Undertaking in public interest and Government servants got so absorbed on their own volition, <sup>h</sup> stands removed and that there would be no distinction between two types of absorption in Public Enterprises. It was clarified that this would apply to all cases of absorption of Government servants in Public Enterprises who had earlier joined Undertakings on their own volition, provided that in case where such absorption took place between 8-11-1968 and 21-4-1972, the benefit of proportionate pension would be allowed only from 1-8-1976.

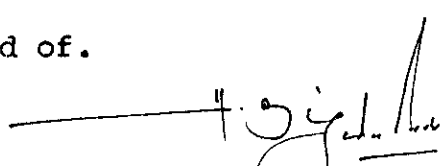
7. At one stage R-2 enquired from CITD whether the applicant had been permanently absorbed in the latter organisation, and a reply was duly given on 8-10-1993, a

copy of which is [redacted] Annexed at A.7 to the OA. In the instant case the applicant resigned from SISI on 3-11-1970 and joined CIRD on 4-11-1970. The provisions of this OM would seem to apply to the applicant in full.

8. In the light of the position explained in the preceding paragraphs it is necessary that the claim of the applicant is examined properly in terms not only of Rule 37 of ~~CCS~~ CC(Pension) Rules, 1972 but also of the relevant instructions issued by the Government of India from time to time in the matter.

9. It is, therefore, directed that the applicant shall submit a comprehensive representation to Respondent-2 within four weeks from today. When such a representation is received by Respondent-2 he will have the case examined in consultation with Respondent-1, if necessary, arrive at a suitable decision and communicate the same within 60 days from the date of receipt of the representation in his office. Should the applicant be aggrieved with the decision so conveyed he shall have the liberty to reagitate his grievance before this Tribunal.

10. Thus the OA is disposed of.

  
(H. Rajendra Prasad)  
Member (Admn.)

Dated : June 30, 1997  
Dictated in Open Court

  
Deputy Registrar

sk

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O.A.1329/96.

To

1. The Development Commissioner,  
Small Scale Industries,  
Govt.of India, 7th Floor,  
Nirman Bhavan, New Delhi-11.
2. The Director, Small Industries Service Instt.  
Govt.of India, Narsapur X Road,  
Balanagar, Hyderabad-38.
3. One copy to Mr.T.P.Acharya, Advocate, CAT.Hyd.
4. One copy to Mr.V.Bhimanna, Addl.CGSC. CAT.Hyd.
5. One copy to Mr.HHRP.M(A) CAT.Hyd.
6. One copy to D.R.(A) CAT.Hyd.
7. One spare copy.

pvm.

16/7/97

T. COURT

cc by 11/7/97

TYPED BY

7/7/97

CHECKED BY

COMPALED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE  
VICE-CHAIRMAN

and

THE HON'BLE MR. H. RAJENDRA PRASAD: M(A)

Dated: 30-6 -1997

ORDER/JUDGMENT

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

in

O.A.No. 1329/96.

T.A.No.

(w.p.)

Admitted and Interim directions  
Issued.

Allowed

Disposed of with directions

Dismissed.

Dismissed as withdrawn

Dismissed for default.

Ordered/Rejected.

No order as to costs.

pvm

केन्द्रीय प्रशासनिक न्यायालय  
Central Administrative Tribunal  
बेचन/DESPATCH  
11 JUL 1998  
हैदराबाद बेंच  
HYDERABAD BENCH