

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

O.A. 278/94.

Date of decision 15.12.94

P.M. Srivastava

.....Applicant.

Vs.

Union of India & others.

.....Respondents.

CORAM: HON'BLE MR. JUSTICE D.L.MEHTA, VICE CHAIRMAN.
HON'BLE MS. USHA SEN, ADMINISTRATIVE MEMBER.

For the applicant - Mr. R.N. Mathur, advocate.

For the respondents - Mr. S.S. Hasan, counsel for Respondents No. 1 and 2.
Mr. Bharat Yadav, advocate
brief holder of Sh. G.C. Chatarji,
counsel for Respondent No. 3.

ORDER (ORAL)

(Hon'ble Mr. Justice D.L. MEHTA, Vice Chairman)

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Applicant is a retired employee who, initially, was appointed in Central Statistical Organisation on the post of Junior Artist on 10.4.56. He continued to hold the same post till 11.8.64. Applicant was sent on deputation during this period to National Mineral Development Corporation (for short "NMDC" "NDMC") for a period of one and half years commencing from 1.2.62 till 18.7.63. After the aforesaid period of deputation, the services of the applicant were repatriated to the Statistical Organisation again. Then the Applicant applied for a post in National Council of Educational Research and Training (for short NCERT). Applicant was appointed as Lecturer in Audio Visual Education.

2. There is a dispute about the pension. As

far as the pension commencing from the date of his appointment as Lecturer is concerned, the same has been paid. There is also no dispute between the parties about ^{the} ~~this~~ fact whether the services rendered earlier should be added or not. The only dispute is about the contribution which was to be made by the N.D.M.C to the Govt.

3. The Govt. has come with a case that though N.D.M.C. has paid Leave Salary, Pension Contribution in respect of the period the applicant was on deputation with that Organisation, it has expressed its inability to pay the penal interest on delayed payment. As a rule, payment of penal interest is obligatory and if N.D.M.C. has failed to pay the same, then it is the responsibility of the employee himself to pay the same. This is the dispute between the parties.

4. The case of the applicant is that the Govt. has not taken appropriate measures at appropriate time and he is not responsible for the payment and either the N.D.M.C. should make the payment to the Govt. if it is a case of delayed payment or the Govt. should make the contribution of interest out of its own funds.

5. As far as the Council is concerned, they have come with specific case that the Council will be able to extend the benefits of combined service for pensionary benefits only if the Ministry of Planning discharges their liability by remitting lump-sum amount to the Council alongwith certificate of qualifying service for pension purposes.

6. In the facts and circumstances, one thing has emerged that the applicant, who was an employee of the respondents, is suffering because of inter-se

dispute between the respondents. There is a trouble with this Tribunal also that ^{NMDC} ~~NDMC~~ is not a party in this O.A. So, we can not determine the fault of any of the parties. Taking into consideration, we accept the O.A. in part and direct Respondents No. 1 and 2 to remit the amount which they have received from NDMC and make the payment of the said amount immediately and they should issue a certificate as desired by Respondent No. 3 in Annexure A/1, dated 25/30.8.1993 about the qualifying service for pension purposes. The O.A. is disposed of accordingly.

No order as to costs.

Usha Sen
(USHA SEN)
ADMINISTRATIVE MEMBER


(D.L. MEHTA)
VICE CHAIRMAN

'MS'