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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

* * *

OA No. 508/1994

Date of order 27.5.97

Mrs. D.H.Thomas W/o Shri H.Thomas, aged around 61 years, resident of 69-E/26, Near Teja Hostel, New Colony, Ramganj, Ajmer; retired Matron, Western Railway, Ajmer Division.

.. Applicant

Versus

1. Union of India through the General Manager, Western Railway, Churchgate, Bombay.
2. Divisional Railway Manager, Western Railway, Ajmer.
3. Financial Advisor and Chief Accounts Officer, Western Railway, Churchgate, Bombay.

.. Respondents

Mr.. P.F.Mathur, Proxy counsel for
Mr. R.N.Mathur, counsel for the applicant
None present for the respondents

CORAM:

Hon'ble Mr. Patan Prakash, Judicial Member

O R D E R


Per Hon'ble Mr. Patan Prakash, Judicial Member

The applicant herein Mrs. D.H.Thomas has approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985 to seek a direction against the respondents to count the services rendered by the applicant under the employment of the State of Rajasthan towards computation of her pension and to pay her the entire arrears of pension with interest.

2. The facts relevant for disposal of this application, in brief, are that the applicant initially joined the services of the State of Rajasthan as Midwife on 22.2.1957. She remained in

the service of the State of Rajasthan from 22.2.1957 till 24.4.1966 on the said post and thereafter was promoted to the post of Staff Nurse and served as such from 25.4.1966 to 18.1.1967 under the Superintendent, Jawahar Lal Nehru Hospital, Ajmer.

3. It is the case of the applicant that in the year 1966, she came across to know that recruitment is to be made by the Western Railway for some posts of Staff Nurses. She applied for the said post. She was called for the interview by the Railway Service Commission, Bombay vide letter dated 11.7.1967 (Ann.A5) and was selected as Staff Nurse on 29.2.1968 on an adhoc basis under the Western Railway. On completion of satisfactory service, she was appointed on a regular measure w.e.f. 16.10.1968 vide memo dated 28.2.1969 (Ann.A6) and thereafter confirmed vide order dated 20.11.1969 (Ann.A7) issued by the Divisional Office, Western Railway, Ajmer. It is further the case of the applicant that before joining the Railway service, she had put in qualifying service for pension purposes under the State of Rajasthan for a period of 9 years 10 months and 12 days (Ann.A4). On superannuation she retired from the Railway service w.e.f. 31.12.1991 (Ann.A3). The applicant is claiming counting of her service rendered under the State Government as per Office Memorandum dated 5.12.1989 (Ann.A9). She made a representation to the Divisional Railway Manager (E), Western Railway, Ajmer on 6.3.1991 (Ann.A10). The Divisional Railway Manager, Western Railway, Ajmer also sought to know vide letter dated 30.10.1991 (Ann.A2) from the Director, Medical and Health Services, Rajasthan, Jaipur as to what proportionate pension would be payable by the State Government. The respondents having failed to count her past services under the State of Rajasthan and letter dated 17.2.1993 (Ann.A1) has been constrained to claim the aforesaid relief.



4. The respondents have opposed this application by filing a written reply. They have raised preliminary objection regarding the claim of the applicant being time barred. On merits, it has been averred that the Office Memorandum referred to by the applicant has no bearing on the Railway Administration since the matter of the counting of past services of an employee rendered in the State Government are governed by the circulars as at Anns. R1 and R2 to the reply. It has also been averred that the applicant has failed to furnish as to whether she had applied for railway service through proper channel and with the sanction of the State Government. There has also been a break in service between the service of State Government and the Railway service and the applicant also failed to furnish any proof about regularisation of this period by any competent authority. It has been averred that on her own version the applicant resigned from the services of the State Government in the month of December, 1967 and that after her selection she was selected as Staff Nurse in the Railways on 29th February, 1968. It has, therefore, been urged that the application deserves rejection.

5. The applicant has also filed a rejoinder reiterating the stand taken by her in the application but has failed to file the letter dated 11.3.1995 and representation dated 14.7.94 Ann.All and A.12 referred in the index to the rejoinder.

6. I heard the learned counsel for the applicant and have examined the record in great detail.

7. The only point for determination which goes at the root of controversy in this OA is whether after resigning from the State service and joining the Railway service after a break in the continuity of the past service with the present service; an employee of the Central Government is entitled to count the period of his/her past service rendered under the State

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Government for purposes of pension ?

8. Although, on behalf of the applicant, it has been urged that there has been no break between his past service under the State Government and the service on joining the Western Railway and that the period of 9 years 10 months and 12 days should be counted as a qualifying period of service for pension purposes, yet the applicant has miserably failed to substantiate this stand by any satisfactory proof. A perusal of her own documents as at Anns. A2, A3 and A4 exhibit that she served the State Government from 22.2.1957 till 18.1.1967 and that her resignation from the State Government was accepted by the Director, Medical and Health Services Rajasthan, Jaipur on 4.12.1967. On her own averment she appeared for interview on 27.7.1967 for recruitment to the post of Staff Nurse in the Western Railway and she was selected as Staff Nurse in the Western Railway on 29.2.1968 only. In Ann.A7, a memorandum dated 20th November, 1969, at Sl.No. 21 her date of appointment has been wrongly stated as 26.1.1967. Infact her date of appointment in the Western Railway is 29.2.1968 as per her own version in the application. She has also failed to substantiate that she applied for the Railway Service through proper channel and with the sanction of the State Government. Since she left services with the State Government on 18.1.1967 and took up fresh employment with the respondent railways on 29th February, 1968; it is apparent that there has been a break in the continuity in her service between the State Government and the services with the respondent railways. Because of these two factors being against the applicant, the applicant cannot take any advantage of the Office Memorandum dated 5.12.1989 Ann.A9. It is urged on behalf of the respondents that the applicant superannuated and retired from the railway service in the year 1991 and also

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received the pensionary benefits subsequent to her retirement but she made a representation only on 6th March, 1991. Even if the limitation is counted from 6th March, 1991; the date of the representation made by the applicant; then the limitation comes to an end on September 6, 1992 as per Section 21 of the Administrative Tribunals Act, 1985. The communications as at Ann. A1 dated 17.2.1994 and Ann.A2 dated 30.10.1991 do not extend the period of limitation to seek the relief by the applicant. The application is liable to be dismissed on the ground of limitation also.

9. For all the aforesaid reasons while answering the issue raised in the OA in the negative and also holding it to be barred by limitation, the OA is dismissed with no order as to costs.



(Ratan Prakash)
Judicial Member