

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BECH, JAIPUR

DATE OF ORDER: 07.12.2004

REVIEW APPLICATION NO. 9/2004
IN
ORIGINAL APPLICATION NO. 283/2002

Hanuman Prasad son of Shri Budh Ram, by caste Jat, aged about 70 years, resident of Village Haripura, Post Kajra, District Jhunjhunu (Rajasthan).

....Petitioner

VERSUS

1. Union of India through the Secretary to the Government of India, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi.
2. Chief Postmaster General, Rajasthan Circle, Jaipur.
3. Postmaster General, Western Region, Jodhpur.
4. Superintendent Post Offices, Sikar Dn., Sikar.
5. Superintendent Post Offices, Jhunjhunu Dn., Jhunjhunu.

....Respondents.

None present for the applicant.

CORAM:

HON'ble Mr. M.L. Chauhan, Member (Judicial)
Honn'ble Mr. A.K. Bhadari, Member (Judicial)

ORDER (ORAL)

Despite repeated opportunity granted to the applicant, none has put ^{an} appearance in this case. The applicant has filed OA No. 283/2002 thereby praying that direction be issued to the respondents to sanction pension and issue PPO with all retiral benefits as the applicant be treated as a retired employee after

[Signature]

rendering qualifying service. It was also prayed that all payments be made to the applicant by quashing the impugned order dated 01.11.2001 (Annexure A/1). The said OA was finally disposed of on 24.01.2003 and it was observed that the applicant as on 13.5.1971 had certainly not completed ten years of service and thus he is not entitled to receive any pension. The matter was further carried out by way of Writ Petition before the Hon'ble High Court, which was finally disposed of on 29.01.2004. The contention of the applicant that the period of ten years should be counted till 5.3.1973 and not till 13.5.1971 when his resignation was actually accepted by the respondents was rejected by the Hon'ble High Court. The Hon'ble High Court has further in penultimate para made the following observations:-

However, if the petitioner has raised the ground before the CAT that his service for the purpose of pension should be counted from the date of his initial appointment, that is from 1954 and that ground has not been considered by the CAT, the course left to the petitioner is to file a review petition before the CAT.

In case the petitioner files the review petition before the CAT, against the impugned order within a period of one month, that review petition be considered in accordance with law.

With the above directions, the petition stands disposed of."

2. It was on this basis the Review Petition against the impugned order came to ^{be} filed which was registered as RA No. 9/2004. According to us, the present applicant have not raised any such ground in the Review Application in the manner as contended by him before the Hon'ble High Court. We have gone through the averments made in the OA. From the averment made in the OA, we are also of the view that the applicant has not raised the plea as raised by him before the Hon'ble High Court, on the basis of which liberty was granted to the applicant to file Review Application. However, at this stage, it would be relevant to extract Para No. 5.5 of the OA whereby the applicant has taken the plea regarding counting of his service as qualifying service for the purpose of pension though not in a manner as stated by the applicant before the Hon'ble High Court, which is in the following terms:-

"That in this way are fact is clear that the applicant has performed his duties in the Department of post and Telegraph since 1954 to 1960 as an ED branch post master and from 1960-1972 as a clerk. Therefore 6 years service of ED.


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6 years of ED	3 years
12 years of Clerk	12 years
	<u>15 years</u>

In this way the applicant put his services for 15 years a qualifying service."

3. Thus from the perusal of the averment made in the OA, it is clear that the applicant wants to include six years of ED service rendered by him to be included as qualifying service as three years for the purpose of qualifying service. When this RA was listed before this Tribunal on 2.8.2004, the attention of the learned counsel for the applicant was invited as to how the service rendered by the applicant on the post of EDBPM is counted for the purpose of pensionary benefit and the matter was adjourned on the request of the learned counsel for the applicant? Thereafter, the learned counsel for the applicant has not put in appearance when the matter was listed on 02.11.2004 and even today. It is an admitted case of the applicant that prior to his absorption as Clerk w.e.f. 09.09.1961, the applicant has also rendered service as ED Agent. There is no provision under the rule whereby service rendered in the capacity of ED Agent is countable for the purpose of pensionary benefits and to be treated as qualifying service. In fact service rendered in the capacity of ED Agent cannot be treated as service rendered on the pensionable post. Thus we are of the view that there is no merit in the RA and it is accordingly dismissed with no order as to costs.


(A.K. BHANDARI)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

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