

(14)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A No.587/95

Date of order: 12/9/2000

R.A.Bansal, S/o Sh.E.L.Bansal, R/o House No.2618, Pop Singh
Mohalla, Nasirabad, Distt.Ajmer.

...Applicant.

Vs.

1. Union of India through the Secretary, Mini.of Defence, Govt. of India, New Delhi.
2. Director General, Defence Estate, West Block IV, R.K.Furam, New Delhi.
3. Director, Defence Estate, Pune.
4. Defence Estate Officer, Rajasthan Circle, Bani Park, Jaipur.
5. Asstt.Defence Estate Officer, 61, Old Surya Apartment, Opposite Circuit House, Jodhpur.

...Respondents.

Mr.P.V.Calla - Counsel for applicant.

Mr.S.S.Hasan - Counsel for respondents.

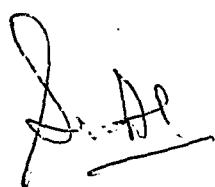
CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member

PER HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER.

In this Original Application under Sec.19 of the Administrative Tribunals Act, 1985, the applicant makes a prayer to direct the respondents to make payment of retiral benefits as mentioned in para 8 of the O.A (Relief Clause).

2. On 21.2.97 this Tribunal directed the respondents "to pay the applicant a sum of Rs.1200/- per month which immediate effect i.e. starting from 1.3.97 and further directed to expedite the matter of determining final or provisional pension payable to the applicant within a period of two months failing with the officer concerned would be held personally responsible". In pursuance of these directions, the applicant was paid a sum of Rs.1,02,562/- as per details given in the order annexed with the reply filed by the respondents.



2. The learned counsel for the applicant submits that the applicant was allowed voluntary retirement w.e.f. 31.3.94 but his qualifying service has been computed w.e.f. 10.5.1963 to 31.12.90 and he has been given total credit for the purpose of pension at 32½ years service. This shows that the applicant treated to have voluntarily retired on 31.12.90. It is also argued that pension has been fixed at Rs.710/- per month. If the pension is correctly computed by treating the applicant as voluntarily retired on 31.3.94, he should have been paid pension @ Rs.720/- per month and this will also effect his gratuity and commutation of pension. On the other hand the learned counsel for the respondents submits that the qualifying service of the applicant for the purpose of pension was computed at 32½ years after giving him 5 years credit as envisaged under Rule 48-A of the CCS (Pension) Rules.

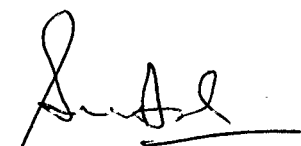
3. I have given anxious consideration to the rival contentions of the parties and also perused the whole record.

4. Admittedly, the applicant joined the service on 10.5.1963 and the respondents' department computed the qualifying service of the applicant for the purpose of pension at 32½ years which was computed w.e.f. 10.5.1963 to 31.12.90 plus 5 years benefit under Rule 48-A of the CCS (Pension) Rules. It appears that the respondents' department did not take the period from 1.1.91 to 31.3.94 for the purpose of computation of qualifying service for pension. No order appears to have been passed by the respondents' department for this period as to how this period is to be reckoned for the purpose of computation of pension and pensionary benefits payable to the applicant. It was the duty of the respondents' department to take note of this period and to pass an appropriate order and thereafter the qualifying service of the applicant should have been computed so as to determine his pension/pensionary benefits. Therefore, it becomes just and proper to give direction to the respondents to pass an order regarding the period from 1.1.91 to the date of voluntary retirement of the applicant i.e. on 31.3.94.

5. I, therefore, direct the respondents to take a note of the period

as aforesaid for the purpose of determining pension and to pass an order how this period will be reckoned for the purpose of determining qualifying service for pension. While passing an order regarding the aforesaid period, if the applicant files any application for regularising this period, the same shall also be taken into consideration and a reasoned and speaking order should be passed. On account of the order, if the pension/pensionary benefits of the applicant are revised, he should paid arrears. The whole exercise must be completed within a period of three months from the date of receipt of a copy of this order.

6. No order as to costs.



(S.K. Agarwal)

Member (J).