

(12)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.549/96

Dt. of order: 7.2.2022

Gurudev Singh Grewal, S/o Shri Waryam Singh, R/o B-4,
Boharaji ka Bagh, Opp.Laxmi Mandir, Tonk Road, Jaipur.

...Applicant.

VS.

1. Union of India through General Manager, Western Railway,
Churchgate, Mumbai.
2. Chief Works Manager, Ajmer Workshop Western Rly, Ajmer.
3. Dy.Chief Mechanical Engineer, C&W, W.Rly, Ajmer.

...Respondents.

Mr.Sunil Samdaria - Counsel for the applicant

Mr.Manish Bhandari- Counsel for respondents.

CORAM:

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

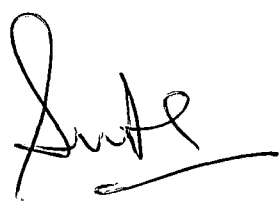
~~Hon'ble Mr.N.P.Nigam, Administrative Member~~

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 pay prorata pension, amount of GPF, Leave salary, DCRG and other retiral benefits to the applicant with interest @ 12% per annum.

2. In brief facts of the case as stated by the applicant are that he was initially appointed as Trade Apprentice in Carriage & Wagon Shop in W.Rly at Ajmer in the year 1955 and after completing 5 years training period, he was absorbed in the Skilled category in W.Rly w.e.f. 10.5.1960. It is stated that later on the applicant applied for the post of Chargeman Gr.II (Machine Shop) in Bokaro Steel Ltd, Dhanbad, through proper channel. He was selected and released by the Dy.CME(CW), Ajmer w.e.f. 4.3.72. Lien of the applicant was to be maintained by the Railway for a period of 2 years and in the event of his absorption at Bokaro Steel Ltd, he was deemed to have resigned from the Railway service and was entitled to the retiral benefits as admissible to him. It is stated that the applicant joined Bokaro Steel on 9.3.72 and was confirmed w.e.f. 8.3.73, therefore, the applicant resigned from W.Rly. But the respondents failed to make payment of retiral benefits admissible to him despite all his efforts. He submitted several representations to the respondents but they did not even respond to those representations. The payment of pension admissible to him was also rejected vide order dated 7.12.95 without proper application of mind, therefore, he filed this O.A for the relief as mentioned above.

3. Reply was filed. In the reply, it is stated that this



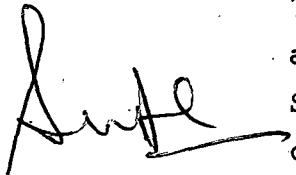
application is not within the period of limitation. The applicant has resigned from the Rly. service, therefore, he is not entitled to the relief sought for. It is also stated that the applicant was not retired from Railway service but he has retired from Bokaro Steel Ltd, therefore, he is not entitled to any retiral benefits from the Railway. The claim of the applicant is highly belated, therefore, this O.A is devoid of any merit and having no merit.

4. Heard the learned counsel for the applicant and also perused the whole record and the written submissions.

5. It is not disputed that the applicant was a confirmed employee of the Western Railway on the substantive post of Skilled cadre and he submitted his application for the post of Chageman Gr.II, Machine Shop in Bokaro Steel Ltd, Dhanbad, through proper channel and thereafter he was selected and relieved for joining the new assignment vide letter dated 4.3.72. In pursuance of that letter the applicant joined Bokaro Steel Plant on 9.3.72 but the applicant was not paid anything by the Western Railway as retiral benefit. It appears that the respondents have refused to pay the retiral benefits, i.e. prorata pension, etc. on the ground that the applicant had resigned from the Railway service, therefore, he is not entitled to the relief sought for. The respondents in the reply have taken a ground that this application is hopelessly barred by limitation to which the learned counsel for the applicant has strongly contested and stated that after the applicant was relieved to join in Bokaro Steel Plant, which is a Public Sector Undertaking the respondents department should have paid all the retiral benefits accrued to the applicant. But nothing was paid to him. He argued that nonpayment of pension and other retiral benefits to the applicant is a recurring cause and the applicant is pressing the demand by way of representations to the respondents, but no heed was paid. Therefore, this O.A is within limitation.

6. I have given anxious consideration to the contentions of the counsel for the applicant and I am of the considered opinion that pension is not a bounty but it is a reward for the past service and nonpayment of the same is recurring cause of action, therefore, this O.A is within limitation and I do not agree with the objection raised by the respondents regarding limitation.

7. On the basis of the pleadings, it appears that the applicant was appointed as Trade Apprentice in the Carriage & Wagon Shop, W.Rly, Ajmer, in the month of February 1955 and after completing the training of 5 years, the applicant was absorbed in the Skilled Cadre of W.Rly w.e.f. 10.5.60 and thereafter he was relieved vide letter dated 4.3.72 of Dy.C.M.E(CW), Ajmer to join on



the post of Chargeman Gr.II (Machine Shop) in Bokaro Steel Plant and the applicant joined there on 9.3.72. Therefore, it can be safely said that the applicant had completed more than 10 years of qualifying service in W.Rly, before he joined in Bokaro Steel Ltd, Dhanbad.

8. The learned counsel for the applicant has cited JT 1997(1) SC 427 Union of India & Ors Vs. Lt.Col.P.S.Bhargava and 1997 (8) SLR 697, T.Mamash Babu Vs. Union Bank of India & Anr.

9. I have given anxious consideration to the above judgments.

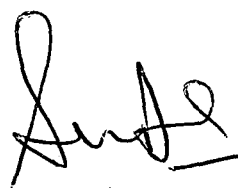
10. The learned counsel for the applicant has also drawn my attention to the Railway Board's letter No.F(P)67, PN-1/18 dt. 18.2.70 regarding retiral benefits to the employees to the Railways who have been absorbed in Public Sector Enterprises.

11. In D.Prabhakar Rao & Ors Vs. UOI & Ors, (1994) 28 ATC 806, Hyderabad Bench of the Tribunal gave directions to respondents to consider the cases of the applicants in the aforesaid O.As for grant of prorata pensionary benefits, in accordance with the extant instructions.

12. In Praduman Kumar Jain Vs. UOI & Ors, (1994) 28 ATC 70, Hon'ble Supreme Court held that where Central Govt employee directly recruited through UPSC and without interruption rendered the service for more than 10 years with satisfactory work and conduct and without being confirmed resigning to join a Central Govt Undertaking, such employee held, fulfilled the requirements of substantive appointment and requisite length of qualifying service. Hence, entitled to prorata pension and other terminal benefits for the service under the Central Govt. In this case, directions were given for payment of arrears with 12% interest.

13. In view of the above settled legal position, I am of the opinion that the instant case is para materia with the order passed in Praduman Kumar Jain case (supra), therefore, the applicant is entitled to be considered for sanction of prorata pension for the period of service he rendered in the Western Railway and the applicant is also entitled to other retiral benefits accrued to him with interest @ 12% per annum.

14. I, therefore, allow this O.A and direct the



respondents to consider the case of the applicant for grant of prorata pensionary benefits in accordance with the extant instructions. The applicant shall also be entitled to arrears with interest @ 12% per annum. The whole exercise must be completed within a period of 6 months from the date of receipt of a copy of this order.

15. No order as to costs.



(S.K. Agarwal)

Member (J)