

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 30/5/2002

OA 390/97

Harish Chandra Bhargava, s/o Late Shri Ram Bhargava r/o 11/1308, Malviya Nagar, Jaipur.

... Applicant

Versus

1. Union of India through Secretary, Department of Youth Affairs & Sports, Ministry of Human Resources Development, Shastri Bhavan, New Delhi.
2. Director General, Sports Authority of India, Jawahar Lal Nehru Stadium, New Delhi.
3. Regional Director, Indira Gandhi Stadium, I.P.Estate, New Delhi.

... Respondents

CORAM:

HON'BLE MR.A.P.NAGRATH, ADM.MEMBER

HON'BLE MR.J.K.KAUSHIK, JUDL.MEMBER

For the Applicant

... Mr.S.K.Vyas

For the Respondents

... Mr.S.S.Hasan, proxy counsel

for Mr.S.M.Khan

O R D E R

PER HON'BLE MR.A.P.NAGRATH, ADM.MEMBER

The facts of this case are in a narrow compass. The applicant had worked in the Railways from 7.9.51 to 5.10.70. He was selected as a full-time Coach in Badminton under the National Institute of Sports. He submitted his resignation from the post of Officiating Senior Clerk in the Railways w.e.f. 5.10.70 (A/N) and joined the National Institute of Sports under Sports Authority of India. He retired from that department on 30.11.93 on attaining the age of 60 years. He has been paid all his settlement dues which have been worked out based on the length of service rendered by him in the National Institute of Sports, Patiala. He submitted a representation on 15.1.96 with a request that the services rendered by him on Western Railway may also be included as qualifying service for the purpose of pensionary benefits. This was followed by him vide reminder dated 14.2.96. His claim has been rejected by the Sports Authority of India vide order dated 16.9.96 (Ann.A/13). It is this order which has been impugned in this OA. Prayer of the applicant is that the respondents be directed to accept

the amount of Rs.5708/-, received by him as his settlement dues from the Western Railway on account of the services rendered by him in that department, and that the period of service from 7.9.51 to 5.10.70 be combined with the services rendered in the Sports Authority of India for determining the pensionary benefits.

2. It is an admitted fact in this case that while working in the Railways the applicant was governed by Contributory Provident Fund Scheme (CPF, for short) and on his resignation he received settlement dues of Rs.5708/- from the Western Railway.

3. Short controversy involved in this case is whether a Central Government employee, who in his new department is governed by the Pension Rules, is entitled to the benefit of the services rendered in the earlier department where he was governed by CPF and from where he has resigned from service, for the purpose of pensionary benefits on retirement from the new department.

4. The respondents have denied the claim of the applicant on the ground that he joined Sports Authority of India as a direct recruit after resigning from the previous service. In his earlier department, he was governed by the CPF and the amount due at the time of his resignation has been duly paid to him. According to the respondents, there is no rule permitting counting of the services rendered in the earlier department in the event the government servant joined the new department as a direct recruit. For both the reasons that he joined Sports Authority of India as a direct recruit after resigning from the Railways and that he was paid his CPF dues in the Railways, he is not entitled to count the services rendered by him in that department for the purpose of pensionary benefits payable by Sports Authority of India.

5. The learned counsel for the parties reiterated the arguments contained in the OA and the reply to support their respective contentions.

6. Before going into this aspect of the case whether a direct recruit to a post in a department is entitled to the benefit of the services rendered by him in an earlier Central Government department and from where he has resigned, we would like to consider whether a



CPF optee can claim the benefit of pensionary scheme. This issue has been well settled in a catena of cases and the celebrated case is Krishna Kumar v. Union of India & Ors. AIR 1990 SC 1782, in which it has been clearly held that those governed by CPF and who did not opt for the pension scheme while in service or during the period such options were permissible, cannot claim pensionary benefits. What the applicant is claiming, amounts to the same thing that for the service rendered in the Railways he should be treated as a pensioner rather than a CPF optee. Even if he had continued in the same department and had retired as a CPF optee, he could make no claim whatsoever to switch over to the pensionary scheme after retirement by offering to refund the amount received as a CPF optee. The pension scheme was introduced w.e.f. 1.4.57 and all those employees who were already in service on 1.4.57 were given an option either to retain the provident fund benefit or to switch over to the pensionary benefits on the condition that the contribution already made through provident fund amount would refund to the Railways on exercise of the option. It is not the case of the applicant that while in service upto the year 1970 he ever opted for the pensionary benefits. He consciously and knowingly remained an optee of the CPF Scheme and received his due benefits. In such a situation, no question arise for giving the benefit of the services rendered by him in the Railways for determining his pensionary benefits by the Sports Authority of India. Accepting his plea would amount to considering him as a pensionary optee even while he was in the Railways. The law is very clear on this point and this option is no more available to a Railway servant who did not exercise his option in time.

7. In view of the conclusion arrived at by us that the applicant being a CPF optee has no right to claim the pensionary benefits for the services rendered by him in the Railways, we do not consider it necessary to go into the aspect whether a direct recruit in the new department i.e. Sports Authority of India could at all claim any such benefit of counting the previous service even if it was due.

8. In view of the discussion aforesaid, we find this OA totally devoid of merit and is, therefore, dismissed. No costs.


(J.K. KAUSHIK)

MEMBER (J)


(A.P. NAGRATH)

MEMBER (A)