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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

Date of Order: 06.11.2000

OA 41/97

1. R.S. Solanki son of Late Shri Udia Singh Solanki aged about 27 years, by caste Rajput resident of 5-D, New Govind Nagar, Ramganj, Ajmer (Rajasthan)
2. Smt. Navratan Kanwar wife of Late Shri Uday Singh Solanki, aged about 47 years, by caste Rajput, resident of 5-D, New Govind Nagar Colony, Ramganj, Ajmer (Rajasthan).
3. Kumari Minakshi Daughter of Late Shri Uday Singh Solanki aged about 24 years, by caste Rajput, resident of 5-D, New Govind Nagar Colony, Ramganj, Ajmer (Rajasthan).
4. Kumari Sunaina Daughter of Late Shri Uday Singh Solanki aged about 20 years, by caste Rajput, resident of 5-D, New Govind Nagar Colony, Ramganj, Ajmer (Rajasthan).

.... Applicants

Versus

1. Union of India through Director, Intelligence Bureau, Ministry of Home Affairs, North Block, New Delhi.
2. Joint Director, Subsidiary Intelligence Bureau, 2-B, Lavan Marg, Jhalana Doongari, Rajasthan, Jaipur.
3. Assistant Director, Subsidiary Intelligence Bureau, 2-B, Lavan Marg, Jhalana Doongari, Jaipur, (Rajasthan).

.... Respondents

Mr. C.B. Sharma, Proxy counsel for
Mr. Rajendra Soni, Counsel for the applicants.
Mr. K.N. Shrimal, Counsel for the respondents.

CORAM

Hon'ble Mr. S.K. Agarwal, Member (Judicial)
Hon'ble Mr. Gopal Singh, Member (Administrative)

ORDER

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

According to the learned counsel for the applicant, the short controversy in this OA remains to be decided as whether period of suspension from 15.1.90 to 10.9.96 shall be counted for the purpose of pension.

2. In the reply, it is stated that as per Rule 23 (Service) under CCS Pension Rules, 1972, it is held that the period of suspension pending inquiry into conduct shall count as qualifying service whereon on conclusion of inquiry, he has been exonerated or the suspension is held to be fully unjustified. Therefore, in view of the provision given in Rule 23 (Services) CCS Pension Rules, 1972, the applicant is not entitled to count the period of suspension as qualifying service for the pension.

3. The learned counsel for the applicant submits that Hon'ble Supreme Court in Bibhuti Bhushan Chaudhary vs. Union of India & Another, 1998 SCC (L&S) 158 held that period of suspension during which subsistence allowance was paid was counted as qualifying period of service.

4. Admittedly, the applicant was paid subsistence allowance during the period of suspension. Therefore, in view of the judgement given by Hon'ble Apex Court, the period of suspension could not be excluded from the qualifying service for the purpose of computing pension of the employee concerned.

5. In view of the settled legal position, as decided by the Apex Court of the Country, we are of the opinion that Shri Uday

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Singh was entitled to pension after counting the period of suspension as qualifying service.

6. OA is, therefore, allowed and respondents are directed to compute the pension after taking into consideration the period of suspension as qualifying service for the purpose of pension. Accordingly pension may be revised and applicant may be paid arrears within four months from the date of receipt of copy of this order.

7. No order as to costs.

Gopal Singh

(GOPAL SINGH)
MEMBER (A)

S.K. Agarwal

(S.K. AGARWAL)
MEMBER (J)