

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

Date of Decision: 31.8.2001

OA 539/99

D.N.Sharma, Retired Senior Teacher, Railway Senior Secondary School, Bandikui, District Dausa, r/o Guda Katla Road, Bandikui, District Dausa.

... Applicant

Versus

1. Union of India through General Manager, Western Railway, Churchgate, Mumbai.
2. Sr.Personnel Officer (Welfare), Western Railway, Churchgate, Mumbai.
3. Divisional Railway Manager (E), Western Railway, Jaipur.

... Respondents

CORAM:

HON'BLE MR.A.K.MISHRA, JUDICIAL MEMBER

HON'BLE MR.A.P.NAGPATH, ADMINISTRATIVE MEMBER

For the Applicant ... Mr.A.F.Singh

For the Respondents ... Mr.B.K.Sharma

O R D E R

PER HON'BLE MR.A.K.MISHRA, JUDICIAL MEMBER

The applicant had filed this OA with the prayer that the impugned order dated 25.5.99 (Ann.A.1) be quashed and the respondents be directed to count the services rendered by him in Gautam High School, Ajmer, from 16.7.55 to 10.1.67 as qualifying service for purposes of pension. The applicant has also sought direction against the respondents to revise his pension, DCRG and other terminal benefits accordingly and pay him regular pension after refixation, with arrears etc., with interest @ 24% per annum.

2. Notice of the OA was given to the respondents, who have filed their reply, to which no rejoinder was filed.

3. It is contended by the respondents that the school in which the applicant had served was a private school and was not a Central Government aided Institution. The Institution in which the applicant had served had no pension facility. The applicant had never raised the point of counting the services rendered by him in that school any time prior to 1996. The OA is hopelessly time barred, bears no merit and deserves to be dismissed.

4. We have heard the learned counsel for the parties and have gone through the case file.

5. As per the allegation of the applicant, he had served Gautam High School, Ajmer, from 16.7.55 to 10.1.67. Thereafter, the applicant joined the respondents in Railway Higher Secondary School, Bandikui, on 12.1.67. The applicant superannuated on 18.2.89. It is alleged by the applicant that the said Gautam High School was financed by the Central Government by more than 50% and consequently, services rendered by him in that school deserve to be counted for purposes of fixation of pension as qualifying service.

6. The respondents negatived the claim of the applicant on the ground that he had served in Public Sector and not in any Institution run by or aided by the Government. The applicant, in support of his contention, has produced Ann.A.2 dated 25.1.97, a certificate issued by the Principal of the said Gautam High School, now Shri Gautam Senior Higher Secondary School, Hathi Bhatta, Ajmer, indicating that the school has been extended more than grant-in-aid upto 90% but there is no pension facility to the employees. In our opinion, this certificate does not help the applicant for the simple reason that it does not

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clarify whether the school was an aided school even during the time the applicant was serving in that school. It is also admitted position that the applicant never raised the point of getting alleged services rendered to Gautam High School counted as qualifying service any time in the past during his service tenure or even upto six years after he retired. During the course of arguments, it was submitted that the applicant came to know of Government Circular dated 13.9.96 (Ann.A/6) in respect of counting of past services rendered in Public Sector Undertakings and from the date of this circular the applicant derived the knowledge that such services, which he had rendered, could be counted for pensionary purposes and hence the OA is not belated. But we are not convinced. The alleged circular (Ann.A/6) was issued by the Government of India in continuation of earlier circulars of 1960 and 1964. Assuming that for the first time the Government of India acknowledged the rights of persons for pensionary purposes who had served Public Sector Undertakings, then also applicant's instituting the present OA almost after three years of the said circular cannot be said to be within limitation. Although in such matters deriving knowledge of such circulars cannot help. The applicant ought to have raised his claim of counting his services rendered by him in Gautam High School, Ajmer, soon after he had joined the Railways or during the service tenure. Since the applicant had never raised this point during his service tenure or even six years thereafter, we do not see that the claim of the applicant deserves consideration. All through the applicant has been sleeping over his rights if at all there was any and, therefore, he is not entitled to any relief.

7. There is nothing on record to show that the said Institution was run as an aided Institution during the

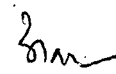
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period 1955 to 1967 and grant-in-aid for more than 50% was being given to the school for being run. Therefore, the certificate dated 25.1.97 (Ann.A/2) does not help the applicant. There is nothing to support the certificate of the Principal that the school was administered and supervised by the Government of India since its establishment. The question of counting of services rendered in such Institutions could be regulated only as per the then existing provisions. If provisions in this regard had come in force subsequent thereto then such cases should be found to have been covered by the Government notification. This aspect has not been clarified by the applicant as to what were the regulatory terms in this regard then in existence in the year 1967. In our opinion, the circular cited by the applicant renders no help to him and consequently, the claim of the applicant deserves to be rejected.

8. The OA is, therefore, dismissed with no order as to costs.


(A.P.NAGRATH)

MEMBER (A)


(A.K.MISHRA)

MEMBER (J)