

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH

CIRCUIT COURT SITTING AT BILASPUR

Original Application No. 146 of 2005

Bilaspur, this the 9th day of March, 2006

Hon'ble Shri Justice, B. Panigrahi, Chairman
Hon'ble Shri Shankar Prasad, Administrative Member

Surjit Singh Bhatia,
3/231, Rajatalab,
Raipur (CG) 492 001.

... Applicant

(Applicant in person)

V e r s u s

1. Union of India, through
Secretary to the Government of
India, Ministry of Water Resources,
Shram Shakti Bhawan,
New Delhi 110 001.
2. The Secretary, Central
Water Commission, Sewa Bhawan,
R.K. Puram, New Delhi 110 001.
3. The Controllar of Accounts,
Ministry of Water Resources,
E-Block, Shastri Bhawan,
New Delhi - 110 001.
4. The Superintending Engineer,
Planning Circle, Central Water
Commission, N.H.IV, Faridabad,
(Haryana) 121 001. ... Respondents

(By Advocate - Shri P. Shankaran)

O R D E R

By Shankar Prasad, Administrative Member -

Aggrieved by the order dated 10.12.2004 rejecting his representation for grant of pensionary benefits, the applicant has preferred the present OA.

2. He has sought for a direction to the respondents for payment of pension, gratuity, leave salary and pay and allowances for 17.8.1980 to 20.6.1985 and amount of Central Government employees insurance scheme and three months notice period pay as per his representation dated 9.8.2004, together with interest. He has also sought exemplary cost of Rs. 8th

1, 50, 000/-.

3. This applicant had earlier approached the Tribunal vide OA No. 1124 of 2000. The Tribunal therein had held as

under :

"6. We find that the applicant was appointed as Draughtsman Grade-II in the Mana Camp in 1965, When the Mana Camp was closed, the applicant was declared surplus and was redeployed with the Central Water Commission through Department of Personnel & Training. The applicant has been transferred from Investigation Division, Central Water Commission, Raipur to Tiparimukh Investigation Circle, Shillong (Assam) vide order dated 21.11.1980. He did not join there and, therefore, the services of the applicant were terminated under Rule 5(1) ibid. The contention of the learned counsel for the applicant that the applicant was working in permanent capacity and his services could not have been terminated under the CCS (TS) Rules, 1965, as he was declared quasi-permanent, is not tenable as this issue has already been decided by the Tribunal in the earlier OA 77/86 filed by the applicant and the SLP filed against the said order has been dismissed by the Hon'ble Supreme Court vide order dated 21.11.1988.....

8. Before we may part, we may observe that the applicant has rendered about 19 years of service. He was declared quasi-permanent in Mana Camp and thereafter redeployed in Central Water Commission, where he was treated as a quasi-permanent. This fact has not been denied by the respondents in their reply. In other words, the applicant has worked against a permanent post also but he has been deprived of the pensionary benefits because he was not appointed in a substantive capacity. The Hon'ble Supreme Court in the case of Yashwant Hari Katakhar Vs. Union of India & ors, 1995 Lab. I.C. 718 has observed that the person working in for more than 10 years cannot be treated as a temporary Government servant and should be treated as a permanent Government servant and be granted all pensionary benefits. In view of the legal position settled by the Hon'ble Supreme Court, we may direct the applicant to submit a representation to the respondents within four weeks from the date of receipt of a copy of this order. If he complies with this order, we direct the respondents to consider his representation sympathetically and take a decision by passing a detailed and reasoned order, within a period of four months from the date of submission of the appeal by the applicant."

a. b.

3.1 Pursuant thereto, the applicant submitted representation. The respondents have thereafter passed their order dated 10.12.2004. They have rejected the claim of the applicant regarding grant of pension on the following grounds

"Since your services were terminated under the provisions contained in Rule-5 of CCS (Temporary Service) Rules, 1965 as you were holding temporary status in CWC, you are not entitled for any kind of retirement benefits."

"16 & 17 In view of the facts stated above, the ratio of the Supreme Court Judgement in the case of Yashwant Hari Katakhar Vs. UOI is not at all applicable in your case and you are not entitled to any pensionary benefits under extant rules."

4. We have heard learned counsel for the respondents and applicant present in person.

5. We first note that explanation (viii)(b) below Rule 11 of CCS (CCA) Rules reads as under :

"Explanation - The following shall not amount to a penalty within the meaning of this rule, namely :-

(viii) termination of the services-

(b) of a temporary Government servant in accordance with the provisions of Sub-rule(1) of Rule 5 of the Central Civil Services (Temporary Service) Rules, 1965, or."

6. In view of the above legal provision it is clear that the termination simplicitor is not dismissal or removal from service within the meaning of the CCS (CCA) Rules. Accordingly, they cannot lead to forfeiture of past services under Rule 24 of the CCS (Pension) Rules, leading to denial of pensionary benefits.

A. Kar

7. We also notice, *A. Kar* merely on this count the respondents have rejected the claim of the applicant and have not considered the direction of the Tribunal for considering the case of the applicant in the light of the decision in Yashwant Hari Katakhar Vs. Union of India & Ors., 1995 Lab. I.C. 718.

8. We accordingly, re-direct the respondents to re-consider the matter and pass speaking order within three *on*

months from the date of receipt of this order. The OA is disposed of accordingly. No costs.

Shankar Prasad
(Shankar Prasad)
Administrative Member

B. Panigrahi
(B. Panigrahi)
Chairman

"SA"

पृष्ठकम सं ओ/न्या.....जबलपुर, दि.....

पतिलिपि अर्पित:-

- (1) सचिव, उच्च न्यायालय, जबलपुर
- (2) आदेशिका, जबलपुर के काउंसल
- (3) प्रत्यक्षी, जबलपुर के काउंसल
- (4) कार्यपालक, जबलपुर के काउंसल

S. S. Bhabha
Prakash
P. Mani Kanon
Ar 133

16/3/06
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Filed
16-3-06