

(3)

Central Administrative Tribunal
Jabalpur Bench

OA No. 1121/2004

Jabalpur, this the 22nd day of July, 2005.

C O R A M

Hon'ble Mr. Madan Mohan, Judicial Member

Swamisharan Sharma
S/o late Shri Ramcharan Sharma
R/o C/o M.L. Sharma, 53, Azad Nagar
Ayodhya By Pass Road
Bhopal (MP).

Applicant

By advocate Shri Deepak Panjwani)

Versus

1. Union of India through
Secretary
Dak Bhawan
New Delhi.
2. The Postmaster General
Indore Division
Indore.
3. Senior Superintendent of Post Offices
Gwalior Division
Gwalior.
4. Deputy Director of Accounts (Postal)
Pension Sub Division
Bhopal.
5. The Postmaster
Head Post Office
Gwalior.

Respondents.

(By advocate Shri P. Shankaran)



O R D E RBy Madan Mohan, Judicial Member

By filing this OA, the applicant seeks a direction to the respondents to pay the pension to the applicant calculating the service in accordance with Rule 49 (3) of the 'Rules of 1972'.

2. The brief facts of the case are that the applicant was working as Group-D in Gwalior Postal Division from 2.11.1993. He retired from service on superannuation on 31.8.2003. He completed 9 years, 9 months and 29 days of actual service in the Department. The applicant was paid the gratuity. The grievance of the applicant is that he has not been granted pension by the department on the ground that the applicant did not complete 10 years' qualifying service. The representation made by the applicant in that behalf remains unanswered. Hence this OA is filed.

3. Heard the learned counsel for the parties. It is argued on behalf of the applicant that under Rule 49 of CCS (Pension) Rules, for calculating the length of qualifying service, fraction of a year equal to three months and above should be treated as a completed one half year. Hence the service rendered by the applicant i.e. 9 years, 9 months and 29 days should be treated as half year. Accordingly the applicant is entitled to pension on the basis of 10 years' qualifying service. The learned counsel has drawn my attention to an order of the CAT, Bangalore Bench in the case of Prabhakar Reddy Vs. UOI & others in OA No.546/2004, the facts of which are similar to the present OA.

4. In reply, the learned counsel for the respondents argued that the applicant has completed 9 years, 9 months and 29 days of actual service in the Department. As per Rule 49(2) (b) of the CCS (Pension) Rules, 1972, a Government servant retiring before completing 33



years of service but after completing qualifying service of 10 years, proportionate pension to the amount of pension will be admissible under clause (a) of the said Rules. Rule 49 of the said Rules has been further clarified by the Department of Pension and Pensioners Welfare vide letter dated 10.6.2002 (Annexure R2) that an employee has to complete 10 full years of service in order to be eligible for counting of service for the purpose of pension. Since the applicant has not completed minimum 10 years of service, he is not entitled to pension for the service rendered by him in the Department

5. After hearing the learned counsel for the parties and perusing the records, I find that the admittedly the applicant has completed 9 years, 9 months and 29 days. In Sub Rule 3 of Rule 49 of CCS (Pension) Rules, it is mentioned that "in calculating the length of qualifying service, fraction of a year equal to three months and above shall be treated as a completed one half year and reckoned as qualifying service. I have perused the order passed by the CAT, Bangalore Bench in OA No.546/2004 cited on behalf of the applicant. The applicant in the above case had completed 9 years, 9 months and 18 days. The said OA was allowed directing the respondents to release pension and pensionary benefits based on 10 years' qualifying service. Hence the applicant is clearly entitled to receive his pension and pensionary benefits based on 10 years' qualifying service.

6. In the above conspectus of the facts and circumstances of the case, the present OA is allowed and the respondents are directed to release the pension and pensionary benefits to the applicant, based on 10 years' qualifying service. This exercise shall be completed within three months from the date of receipt of a copy of this order. No costs.


(Madan Mohan)
Judicial Member