

Central Administrative Tribunal
Jabalpur Bench

OA No.226/04

Indore, this the 17th day of November, 2005.

C O R A M

Hon'ble Mr.M.P.Singh, Vice Chairman

Hon'ble Mr.Madan Mohan, Judicial Member

Shri Arun

S/o Shri Laxman Shukla

Ex.LDC

R/o 400 K.V.Sub Station Campus

M.P.S.E.B.colony, Khandwa Road

Indore, now at Qr.No.F-23, M.P.S.E.B.Colony

Playground, Indore.

Applicant

(By advocate Shri Rajendra Gupta on behalf of
Shri A.K.Sethi for the applicant)

Versus

1. Union of India through
Secretary to Government of India
Ministry of Defence
Defence House
New Delhi.
 2. The Chief of Naval Staff
Naval Headquarters
New Delhi.
 3. The Central Provident Fund Commissioner
14, Bhikaji Cama Place
New Delhi.
 4. The Regional Provident Fund Commissioner
7, Race Course Road
Indore (MP).
- Respondents

(By advocate Shri Umesh Gajankush)

ORDER

By Madan Mohan, Judicial Member



By filing this OA, the applicant has claimed the following reliefs:

To direct respondents 3 & 4 to add the service period of the applicant in Indian Navy from 30.12.70 to 11.8.75 to the period of service 27.7.72 to 11.3.76 rendered by the applicant under respondents 3 & 4 and to make payment of pension to the applicant with all arrears.

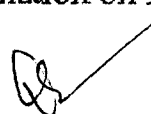
2. The brief facts of the case are that the applicant who was appointed in the Indian Navy as Navy Sailor on 30.1.1960 worked till 30.12.70 on various Indian Navy warships. On completion of this period, his services were transferred to the Indian Navy Fleet Reserve from 30.12.70 to 30.12.80. On 11.8.1975, the Commodore, Naval Barrack Drafting Office, Mumbai, induced the applicant by sending a proforma wherein it was mentioned that the Govt. of India decided to pay a lumpsom amount to the sailors who would submit their option for cancellation of reserve period from Indian Navy Fleet reserve List. The applicant signed a proforma and sent it to the Commodore, in the hope that the lump sum amount would be paid to him shortly but the applicant received only Rs.417/-. The applicant was never informed that the cancellation of the reserve period would entail seizure of his pensionary rights. By letter dated 9.5.02 (Annexure A3), the applicant was intimated that Appendix-A was erroneously issued to him for counting of military service from 30.12.70 to 29.12.80 as the applicant was withdrawn from Fleet Reserve List service on 18.8.75 on his own request and in such a situation, the applicant was held eligible for counting of his services from 30.12.1960 to 17.8.1975 only. Thereafter the applicant was employed on adhoc basis as LDC under respondent No.4 on 27.7.72 and he worked till 11.3.76 on this post. Respondent No.4 issued a certificate in this behalf on 30.4.03 (Annexure A4). He is entitled to get pension from respondents 3 & 4 by adding his Navy services from 30.12.60 to 17.8.75 as is clear from the letter dated 4.7.02 (Annexure A5). The applicant submitted a representation to respondent No.3 on 28.12.02 and again sent a reminder on 28.2.03 but without any result. Hence this OA is filed.



3. Heard learned counsel for both parties. It is argued on behalf of the applicant that the applicant had served the Indian Navy from 30.12.60 to 30.12.70 and he was in the reserve list from 30.12.70 to 18.8.75 and this period is to be added in the service period of the applicant under respondent No.4. The applicant had submitted the option for withdrawal from reserve list under the impression that a lump sum payment was going to be made to him, but this impression was ultimately found to be false. According to Annexure A5 letter dated 4th July 2002, the applicant was in active service from 30 December 1960 to 29th December 1970 and reserve service from 30th December 1970 to 17th August 1975 and not beyond that. The applicant is legally entitled for counting this period of service for the purpose of pension but respondents 3 & 4 have not considered his request.

4. In reply, learned counsel for the respondents argued that the applicant had joined the office of respondent No.4 on 27.7.72. Thereafter he tendered his resignation on 9th March 1976 on the ground that he was selected in bank service and, therefore, not in a position to continue his services and requested to relieve him at the earliest. The said resignation was accepted by respondent No.4 from 11.3.1976. Hence the total period of service as LDC is 3 years 7 months and 14 days only and at no point of time, he had made any grievance for adding his past services rendered in Indian Navy. Learned counsel for respondents has drawn our attention towards Rules 26 (i) of the C.C.S. (Pension) Rules, 1972 in which it is mentioned that on tendering resignation from a service, unless it is allowed to be withdrawn in the public interest by the appointing authority entails forfeiture of past service. Hence the applicant is not entitled for the reliefs claimed.

5. After hearing learned counsel for both parties and perusing the records, we find that the applicant had joined the office of respondent No.4 on 27.7.1972 and he submitted his resignation on 9th March 1976



(Annexure R.4), which was accepted by respondent No.4 vide order dated 11.3.1976. We have perused Rule 26 (i) of CCS (Pension) Rules, in which it is mentioned that "Resignation from a service or a post, unless it is allowed to be withdrawn in the public interest by the Appointing Authority, entails forfeiture of past service." The applicant could not show any fact against the above rule. His resignation was not allowed to be withdrawn. Hence the argument on behalf of the respondents seems to be legally correct. The applicant has filed this OA on 15th March 2004 while he should have filed this OA after 11th March 1976 before appropriate forum i.e. soon after acceptance of his resignation. Hence this OA is highly time barred. The applicant could not also show any justifiable reason for filing this OA after about 28 years.

6. Considering all facts and circumstances of the case, we are of the considered view that the OA has no merit. Hence it is dismissed. No costs.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

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पृष्ठंकन सं ओ/न्या.....जबलपुर, दि.....

पतिलिपि जारी किया -

- (1) सचिव, जबलपुर, जबलपुर, दि.....
- (2) आचार्य, जबलपुर, जबलपुर, दि.....
- (3) प्रमुख, जबलपुर, जबलपुर, दि.....
- (4) कर्मचारी, जबलपुर, जबलपुर, दि.....

सूचना एवं आचार्यक कार्यालय, जबलपुर

DK. Singh
M. Gagan Kumbh
S.C. Sharma

08/03/2004

रजिस्ट्रार

23/11/04