

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
CIRCUIT COURT SITTING AT BILASPUR
Original Applications No 697 of 2004

Indore, this the 19th day of August, 2005.

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. Madan Mohan, Judicial Member

M.L. Bhatia,
Aged about 75 years,
S/o Late Shri Kaluram Bhatia,
R/o 167/MIG II, Amy Nagar,
Bhilai (C.G.)

Applicant

(By Advocate – None)

V E R S U S

1. Union of India,
Through the Secretary,
Ministry of Personal Public
Grievances & Pension,
Department of Pensions &
Pensioners, Welfare, Nirvachan
Bhawan, Patel Chowk,
New Delhi.
2. Commandant & Officer Incharge,
Central Ordnance Depot,
Jabalpur (M.P.)
3. Managing Director (Accounts)
Bhilai (C.G.)
4. Controller of Defence
(Accounts)
Allahabad (U.P.)

Respondents

(By Advocate – None)

O R D E R

By Madan Mohan, Judicial Member –

By filing this Original Application, the applicants have sought
the following main reliefs :-

“(iii)to command respondents to certify the service
records of the applicant. He be paid payment of pro-rata

pension, gratuity, carry forward leave for service rendered by him and thereafter the service period of computed upto 30.9.82. The services rendered in COD/respondent No.2, be counted for all purpose and for giving all such benefits permissible under the rules with interest at the market rate and all benefits be given to the applicant towards retiral benefits and pension be directed to be computed with all dues including the benefits of revision of pay scales, gratuity and others benefits accruing to him.

2. The brief facts of the case as stated by the applicant are that he joined the services in Central Ordnance Depot Bombay on 17.1.48. Respondent No.3 had issued an advertisement for the post of Superintendent for which the applicant applied through proper channel and his application was forwarded by respondent No.2. He was duly selected and relieved from COD on 15.4.57. His lien was retained and ultimately in public interest, he was absorbed in Bhilai Steel Plant on 27.9.60, and his lien was terminated accordingly. The applicant contended that he retired from Bhilai Steel Plant on 30.9.82 (in sort 'BSP') and as his absorption in BSP was in public interest, taking into consideration the length of service rendered by him i.e. 34 years, he is entitled for benefits of prorata pension for the period of 14 years approximately. Although the applicant had rendered the service for a long span of 37 years under the Government of India and in public sector undertaking he has been debarred from his legitimate and fundamental right of pro-rata pension, gratuity and carry forward of leave. The fundamental right of the applicant has, therefore, been violated without any just and valid reason. The applicant submitted a representation dated 10.6.2004, agitating all his grievances. The respondents vide order dated 22.6.2004 have given assurance to the applicant that his case will be reconsidered. The respondent No.1 vide its order dated 4.4.96 has rejected the claim of the applicant without considering the circular issued by the Ministry of Defence and the applicant was deprived of his valuable rites. His case has not been properly dealt with and the benefit was not given to him and the same has been rejected on frivolous ground. Hence, this OA.

3. None is present on behalf of either side. Since, it is an old matter of the year 2004, we are disposing of this by invoking the provisions of Rules 15 and 16 of the Central Administrative Tribunal (Procedures) Rules, 1987. We have carefully perused the pleadings and records.

4. The respondents have filed their reply stating that the applicant was appointed as LDC on 17.1.1948. He applied to join Bhilai Steel Plant through proper channel and joined in the BSP w.e.f. 15.4.1957 which is a public sector undertaking. He was holding lien with the department for two years and after absorption in public sector undertaking, his lien was terminated w.e.f. 1.8.1960. Thus the applicant had rendered total service in Army Ordnance Corps for 12 years 6 months and 15 days as per his application submitted earlier. The respondents stated that the applicant's record is old i.e. of beyond the retainable period, and in spite of thorough search and efforts made by AOC (R) Secundrabad, and his absorbee BSP, his service records could not be located and available. In absence of service records his case was prepared on the basis of statement of individual submitted to higher authorities i.e. Army Headquarters for consideration of pro-rata pension. The case of the applicant was turned down by the Ministry of Defence for not fulfilling the condition laid down in para 3 (iii) in the OM dated 3.1.1995. The claim of the applicant that he had done pensionable service w.e.f. 17.1.1948 to 30.9.1982, is also wrong and baseless. He retired from Bhilai Steel Plant on 30.9.1982 and for retiral benefits for the services rendered under BSP from the date of permanent absorption till date of retirement, is the liability of borrowing department. Therefore, claiming benefits of pro-rata pension for entire period is not in order. Thus, this OA deserves to be dismissed.

5. After considering all the facts and circumstances of the case, we find that the applicant has filed this OA on 23.8.2004 while he retired

from Bhilai Steel Plant on 30.9.1982 i.e. after 22 years of retirement. We also find that the records of the applicant is very old and beyond the retainable period. No records were available with the COD, Delhi Cantt. for the period of service rendered by the applicant prior to joining Bhilai Steel Plant. The applicant has not moved any application for condonation of delay. The Hon'ble Supreme Court in the case of Ramesh Chand Sharma etc. Vs. Udham Singh Kamal & Ors., 2000(1)ATJ179 held as under :

"Administrative Tribunals Act, 1985-Section 21-Limitation - O.A. before the Tribunal against the order of non-promotion was time barred - No application of condonation of delay filed - Tribunal not right in deciding the OA on merits overlooking the statutory provisions contained in Section 21(1) & (3)."

We further find that the applicant has not filed any document in support of his claim that the applicant has been absorbed in the Bhilai Steel Plant in public interest. Unless he is absorbed in public interest in the Bhilai Steel Plant he is not legally entitled for the reliefs claimed. To prove this fact the burden remains on the applicant.

6. In view of the aforesaid, we do not find any merit in this Original Application and also in view of the law laid down by the Hon'ble Supreme Court this OA is bereft of merit and is highly time barred. Accordingly, the same is dismissed. No costs.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

"SA"/aa.

पुस्तक सं ओ/न्या. जलपुर, दि.
प्रतिलिपि अने धित -
(1) सचिव, उच्च न्यायालय एडिवाइजर, जलपुर
(2) अध्यक्ष, न्यायिक सेवा, जलपुर
(3) प्रवर्ती, न्यायिक सेवा, जलपुर
(4) कंसाल, संपा. न्यायिक सेवा, जलपुर
सचिव एवं आवश्यक कार्यवाही के
उप रजिस्ट्रार

A.G. Dhanraj
an Master
AN 1760

30/8/05