

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

OA No.411/03

Jabalpur, the 24th day of September, 2004.

CORAM

Hon'ble Mr. Madan Mohan, Judicial Member

Khubi Lal Saman
S/o Shri Antu Ram
R/o Bajarang Nagar
I.T.I. Karmehata Katangi Road
Dist. Jabalpur (MP)

Applicant

(By advocate Shri P.S.Chaturvedi)

Versus

1. Union of India through
The Secretary
Ministry of Youth Affair & Sports
New Delhi.
2. The Manager
Sports Authority of India
Training Centre
Jabalpur.

Respondents

(By advocate Shri Om Namdeo)

ORDER

By Madan Mohan, Judicial Member

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


- (i) Direct the respondents to start/fix the pension of the applicant.
- (ii) Direct the respondents to pay all his retiral benefits like leave encashment, gratuity and bonus with 12% interest.

2. The brief facts of the case are that the applicant was appointed as a Sweeper in the Indian Army in 1961. He rendered 4 years service there. Thereafter the applicant joined Indian Air Force and after 15 years of service, he retired in 1985. Thereafter, the applicant was appointed in the Distt. Sanik Welfare Office in the Government of MP Sainik Board as a Chowkidar cum Farash on 2.6.88 and his services were terminated on 31.1.1990. Thereafter on 26.2.90, the Board forwarded his application to State Government.

The copy of recommendation letter is filed as Annexure A-3. On 19.2.92, the applicant was appointed in the Sports Authority of India, ~~Training~~ ^{Training} Centre, Jabalpur. During his service, GPF amount was deducted from his salary. The applicant was also a member of the Group Savings Linked Insurance Scheme and the premium was also being deducted from his salary. The applicant has not taken leave during his service and 190 days' leaves were also pending and he is entitled for encashment of 190 days' leaves and entitled for payment of Rs.1 lakh at least as leave encashment. He retired from his service on 31.8.2001. But even after his retirement no pension has been fixed nor some other retiral benefit paid to him. The applicant submitted a representation on 14.4.02 before the higher authority at Delhi (Annexure A8). Hence this DA is filed.

3. Heard learned counsel for both parties. The learned counsel of the applicant argued that the respondents have not paid the applicant's retiral dues and not fixed his pension and further argued that the applicant has rendered 9 years 6 months and 12 days and as per Rule 49⁽³⁾ of CCS (Pension) Rules which specifically says that "in calculating the length of qualifying service, fraction of a year equal to 3 months and above shall be treated as a completed one half year and reckoned as qualifying service", the applicant has rendered 10, years' service and is legally entitled for pension from the respondents while the respondents have not given him the pension. The applicant is also entitled for ~~Further~~ ^{other} reliefs claimed.

4. In reply, the learned counsel for respondents argued that the applicant is an ex-serviceman served in various



Wings of Defence Services. In the year 1961 he joined Indian Army at MPR-3ST Training Centre, Jabalpur where he served for four years. Thereafter on 25.3.71, he joined Indian Air Force and served there for 15 years and discharged from 27 Wing Air Force 15 Sector, Kadha, Bhuj (Gujarat). Thereafter, the applicant rendered near about two years in the District Sainik Welfare Board, Narsinghpur. On 19.2.92 the applicant was appointed in the Sports Authority of India, Jabalpur in the pay scale of Rs.750-940 and he retired on attaining the age of superannuation. After retirement from the service of Sports Authority of India, Training Centre, Jabalpur, the applicant was paid the following terminal benefits:

- (i) GPF full and final payment Rs.23289/-
- (ii) Service Gratuity for complete
9 years and 6 months Rs.40214/-
- (iii) Leave Encashment for
180 days Rs.25398/-
- (iv) Payment under GSLI Scheme Rs. 1824/-

Hence all the retiral dues were paid to the applicant in accordance with rules. So far as the applicant's claim for pension is concerned, the same has no force because the applicant has not rendered 10 years' qualifying service. Hence he is not entitled to get pension under CCS (Pension) Rules. The applicant had served the Indian Air Force for more than 15 years and the applicant could have claimed pension from that department but in the present OA, the applicant has not ^{made} the IAF as a party respondent. Hence the applicant cannot legally claim pension from the respondents.

5. After hearing the learned counsel for both parties and careful perusal of the records, I find that the respondents have paid the retiral dues to the applicant, such as GPF, Gratuity, leave encashment, payment under GSLI Scheme, etc. except the alleged pension. About the pension of the applicant, I have perused Rule 49 sub clause 3 of CCS (Pension) Rules



in which it is mentioned that "in calculating the length of qualifying service, fraction of a year equal to 3 months and above shall be treated as a completed one-half year and reckoned as qualifying service". Admittedly, the applicant has served for 9 years 6 months and 12 days in the office of the respondents. Now the question arises as to whether the 12 days shall be counted as one-half year or not. The above rule clearly provides that fraction of a year equal to 3 months and above shall be treated as a completed one-half year while the applicant has served 12 days after putting his service of 9 years and 6 months. Hence after putting 9 years and 6 months' service, the applicant has not served for a period of 3 months and above. If the applicant had served for 9 months or above, then two-half year period would have been counted, as is mentioned in DO No.28(15)/83-PU dated 13th October 1983. Hence for the purpose of pension, the applicant's qualifying service comes to 9 years and 6 months only and apparently, according to the aforesaid rules, he has not completed 10 years' of service, which is the minimum requirement for providing pension. Hence the applicant is not entitled for pension from the respondents. All other retiral dues have already been paid to the applicant and legally the applicant is not entitled to receive pension. Hence this DA has no merit and is dismissed. NO COSTS.

(Madan Mohan)
Judicial Member

aa.

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

पल्लिकिपि वाच्ये लिपि—

(1) सचिव, उच्च न्यायालय जबलपुर, जबलपुर

(2) जज (अधीनस्थ) श्री/श्रीमती/शु. के काउंसिल

(3) प्रमुख पी/पीएच/शु. के काउंसिल

(4) न्यायालय, इलाहाबाद, जबलपुर न्यायाधीश

सूचना एवं आवश्यक कार्यवाही हेतु

उप रजिस्ट्रार

PS Chaturvedi
Amwanda

Issued
on 24-9-07