

Central Administrative Tribunal, Jabalpur Bench, Jabalpur

Original Application No.923/ 2003

Jabalpur, this the 8 day of December, 2004

**Hon'ble Shri M.P.Singh, Vice Chairman
Hon'ble Shri Madan Mohan , Juidicial Member**

**Prem Shanker Dixit, aged about 64 years,
Retired Senior Monument Attendant,
Superintending Archaeologist,
Archaeological Survey of India,
Central Circle,
Bhopal**

-Applicants

(By Advocate – None)

Versus

1. Union of India,
Through the Secretary,
Ministry of Human Resources Development,
Govt.of India,
New Delhi.
2. Director General,
Archaeological Survey of India,
Janpath,
New Delhi-110001
3. Superintending Archaeologist,
Archaeological Survey of India,
Central Circle,
Bhopal.
4. Pay and Accounts Officer,
Archaeological Survey of India,
10-Janpath,
New Delhi-110001

Respondents

(By Advocate – Shri K.N.Pethia)

ORDER

By M.P.Singh, Vice Chairman –

As none was present on behalf of the applicant at the time of hearing, we are disposing of this O.A. by invoking Rule 15 of Central Administrative Tribunal (Procedure) Rules, 1987.

2. By filing this OA the applicant has sought the following main reliefs :-

- a. The non-applicants may kindly be directed to fix properly ~~the~~ amount of pension counting the applicant's services from the date of his first appointment on 14.07.1962.
- b. The non-applicants may further pleased be directed to pay the arrears accumulated since the date of his retirement 31st July 1999 of deficiency of amount of pension with interest @ 9% per annum."

3. The brief facts of the case are that the applicant was appointed as Monument Attendant on 14.7.1962 in a work-charged establishment. He was appointed on a permanent post in work-charged establishment as per order no.03, Bhopal dated 2.1.1970 (Annexure-A-3) whereby 39 posts of Monument Attendants were made permanent. Further, on the recommendations of the Departmental Promotion Committee, the services of the applicant in Group-D post in the scale of Rs.750-940 were confirmed vide order dated 30.8.1991. He retired from service w.e.f. 31.7.1999 on attaining the age of superannuation. Thus, the applicant had rendered total service of 37 years and 14 days during the period from 14.7.1962 to 31.7.1999 without any break or interruption. The applicant had received the Pension Payment Order (Annexure-A-2) from Pay and Accounts Officer, New Delhi wherein the qualifying service of the applicant was wrongly shown as 29 years, 5 months and 24 days as against the actual service of 37 years 14 days rendered by him. Consequently, the pension was granted to him at the rate of Rs.1536/- per month whereas he ought to have been granted the pension @ Rs.1718/- per month after rendering more than 33 years qualifying



service. Hence he has filed this OA, claiming the afore-mentioned reliefs.

4. The respondents in their reply have stated that the applicant rendered the service as contingent work charged employee against the budget sanctioned for annual repairs maintenance on 14th July, 1962. His services have been regularized on 31.8.1977. He rendered 15 years service as work charged contingent pay employee and he retired from service on 31.7.1999 after rendering 22 years of service. As per pension rules the half of the service paid from contingency will be allowed to count towards pension/ terminal gratuity under the CCS (Temporary Service) Rules, 1965. In view of the statutory provisions seven and half years half of the services rendered by the applicant as contingency is counted as qualifying service for the purpose of terminal benefits, therefore, 22 years regular services plus seven and half years (half of his contingent service) total twenty nine and half years service was counted for computation of the pension as qualifying service. In view of the above, the respondents have contended that there is no illegality on their part nor there is any violation of statutory rules. Therefore, the present O.A. being devoid of merits is liable to be dismissed.

5. Heard the learned counsel for the respondents and perused the records carefully. On our directions, the learned counsel for the respondents has also produced the original records relating to the service book of the applicant. We have also perused the same.

6. We find that an order No. 56-17/73-Adm.II dated 26th May, 1978 has been issued by the Director General, Archaeological Survey of India, New Delhi (copy placed on record), by which "workcharged posts have been converted into regular establishment in the same scale w.e.f. 31st August, 1977", and an entry to that effect has been made in the service book of the applicant appointing him on permanent

establishment w.e.f. 31.8.1977. The applicant has retired on 31st July, 1999. Thus, he has rendered regular service under the respondents from 31.8.1977 to 31.7.1999. The Govt. of India, Department of Personnel & Training O.M. No.12011/1/85-Estt© dated the 10th March, 1986 (reproduced as Govt. of India's decision no.(2) below Rule 14 of CCS(Pension)Rules, 1972 (Swamy's compilation Sixteenth Edition-2002) specifically stipulates that "half the service paid from contingencies will be allowed to count towards pension at the time of absorption in regular employment" and further that "half the service paid from contingencies will be allowed to be counted for the purpose of terminal gratuity as admissible under the CCS(TS)Rules, 1965, where the staff paid from contingencies is subsequently appointed on regular basis". As the applicant has been working w.e.f. 14.7.1962 to 30.8.1977 as work charged contingent pay employee and his services have been regularized w.e.f. 31.8.1977, the respondents have rightly counted half of the service rendered by him as a contingent paid employee, for the purpose of pension / terminal gratuity in terms of the aforesaid provisions.

7. The contention of the applicant that he has been appointed on regular basis w.e.f. 1.2.1968 at the time when 39 posts of Monument Attendant were converted into permanent is not correct and is based only on presumption and surmises, as the applicant has not substantiated his averment in this regard by producing any documentary proof. On the other hand, the learned counsel for the respondents has established the fact by producing the service book of the applicant and copy of the aforesaid order dated 26.5.1978 establishing the fact that the applicant has been appointed on regular basis w.e.f. 31.8.1977.

8. In view of the aforesaid facts and circumstances of the case we find that the respondents have correctly calculated the qualifying service of the applicant and have paid him the retiral benefits

accordingly. In this view of the matter, we do not find any illegality or irregularity in the action taken by the respondents and the present O.A. being devoid of merits is liable to be dismissed.

9. In the result, the O.A. is dismissed, however, without any order as to costs.

(Madan Mohan)
Judicial Member

(M.P.Singh)
Vice Chairman

rkv.

पृष्ठांकन सं. ओ/न्या..... जबलपुर, दि.....
पतिलिपि आच्ये शिळः—

(1) सदिव, उच्च ल्याय अद्य तार एजेंसिएशन, जबलपुर
 (2) आवेदक श्री/‘प्रीति’ कु.....के काउंसल
 (3) प्रत्यर्थी श्री/श्रीपति/लु.....के काउंसल
 (4) ग्रंथपाल, के प्रभा., जबलपुर न्यायाधीष
 सूचना एवं आवश्यक कार्यकारी हेतु

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वर्षयक कार्यवाही हेतु
उष्टरजिस्ट्रार

Sachishtha-vadhan
Adv. - 24100
R.N. Pathi

Devotion.