

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

OA No.117/02

Indore, the 29th day of September 2004.

C O R A M

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

B.K.Majumdar
S/o Late Dr.Manindra Nath Majumdar
Accounts Officer
Regional Medical Research Centre
Indian Council of Medical Research
Near Medical College,
Jabalpur. Applicant

(By advocate Shri A.P.Shroti)

Versus

1. Union of India through
Principal Secretary
Ministry of Energy
Department of Power
Shiva Bhawan, R.K.Puram
New Delhi.
2. Union of India through
Principal Secretary
Ministry of Textiles
Udyog Bhawan, New Delhi.
3. Development Commissioner for Handlooms
Ministry of Textiles, Udyog Bhawan
New Delhi.
4. Director, Thermal Power Station
(Personnel Training Institute)
Durgapur.(WB)
5. Director General
Indian Council of Medical
Research, Ansari Nagar
New Delhi. Respondents

(By advocates Shri S.P.Singh for R1&4
Shri S.A.Dharmadhikari for R2&3
Shri A.Adhikari on behalf of R5.)

O R D E R

By Madan Mohan, Judicial Member

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

- (i) To declare that the applicant is entitled to count his service from 1.10.1974 to 10.7.92 when he joined the Indian Council of Medical Research.



(ii) Direct the respondent Development Commissioner to extend pro-rata benefits for the services rendered by the applicant in Weavers' service centre.

(iii) Quash the memo dated 7.1.02 Annexure A23 passed by the respondent Development Commissioner for Handlooms.

2. The brief facts of the case are that the applicant was initially appointed as LDC and posted at the Thermal Power Station (Personnel Training Institute), Durgapur(WB) in the Department of Power under the Ministry of Energy and he worked there from 1.10.74 to 12.8.1981. He applied for the post of Accountant in the office of Development Commissioner for Handlooms, Ministry of Textiles and was appointed as such by direct recruitment process. He worked there from 13.8.1981 to 6.7.1992. Thereafter, the applicant applied to the ICMR for recruitment to the post of Accounts Officer through proper channel and was appointed on the post of Accounts Officer on 11.6.92. He has also been confirmed on 10.7.94 and posted at Jabalpur. The applicant applied for counting his services rendered from 1.10.1974 to 12.8.81 in the Department of Power and also from 13.8.81 to 6.7.92 in the office of the Development Commissioner for Handlooms. However, the Development Commissioner for Handlooms, Ministry of Textiles, refused to extend the pro-rate benefits for the services rendered by the applicant in Weavers' Service Centre. Hence this OA is filed.

3. Heard the learned counsel for both parties. It is argued on behalf of the applicant that the applicant served in the Department of Power (Thermal Power Station) and thereafter he served in the office of Development Commissioner for Handlooms, Ministry of Textiles and thereafter he was appointed in the ICMR. All these three departments are of the Central Government. The applicant has claimed counting



of past service from 1.0.74 to 12.8.81 (served as LDC in the Thermal Power Station) and from 13.8.81 to 6.7.92 (served as Accountant under the Development Commissioner for Handlooms), while respondents 2 & 3 are not considering his rightful claim. It is argued on behalf of the applicant that in the letter issued from the office of the Development Commissioner for Handlooms dated 7th January 2001 (Annexure A23) it is mentioned that 'no such benefit is allowed to temporary employees going over to autonomous body or undertaking'. It is also mentioned in that letter that it appeared that he was not permanent in WSC cadre in view of the entries made in the service book of the applicant. While the applicant was serving as a permanent employee and it was the duty of the department to produce any document in support of the applicant, respondents 2 & 3 cannot use words like "it appears" because they have in their possession all the documents regarding the service of the applicant. Our attention is drawn towards (1994) 28 ATC 70 SC in the case of Praduman Kumar Jain Vs. UOI & another, decided on 11th July 1994 in which it is held in paragraph 6 as follows:

"pensionary benefits: (i) Resignation from government service with a view to secure employment in a Central public enterprise with proper permission will not entail forfeiture of the service for the purpose of retirement/terminal benefits."

Hence the applicant is entitled to the reliefs claimed.

4. In reply, learned counsel for respondents 2 & 3 argued that the applicant joined as Accountant on 13.8.81 through direct recruitment in the Weavers' Service Centre cadre under the Development Commissioner for Handlooms and he worked there from 13.8.81 to 6.7.92. Respondents 2 & 3 have been considering the case of the applicant for



granting the benefit for the period rendered in the Weavers' Service Centre, Office of the Development Commissioner for Handlooms. As per rules, it is only the Departmental Promotion Committee which is competent to recommend confirmation of an official in a substantive capacity. The applicant on his selection in the Regional Medical Research Centre, a Govt. autonomous body, resigned from Government service. Accordingly, the applicant was relieved from the cadre of the Weavers' Service Centre w.e.f. 6.7.92. After the zonalisation of Weavers' Service Centre cadre, the 1st DPC meeting for confirmation in the East Zone was held on 28.4.1993. As the applicant had already resigned from the Govt. service, his case was probably not taken at that period of time due to oversight. Due to the pendency of the OA, respondents 2 & 3 are seeking permission of this Tribunal to place the case for consideration in the next DPC.

this case

5. On perusing the pleadings and records of/we find that the Department of Power (Thermal Power Station) as also respondents Nos. 2 & 3 against whom the applicant has sought reliefs, have stated that they are considering the case of the applicant. They have further stated that the case of the applicant for confirmation will be considered in the next DPC. The respondents Nos. 2 & 3 filed a MA No. 445/2003, wherein they have sought permission to place the case of the applicant for consideration in the next DPC. This MA was allowed vide order dated 1.5.2003.

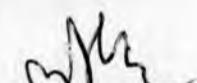
6. In view of the aforesaid facts and circumstances of the case and as the respondents themselves have admitted and asked permission to place the case of the applicant for consideration in the next DPC, we direct the respondents

(Signature)

Nos. 2 & 3 to complete the formalities of confirmation of the applicant within a period of three months from the date of receipt of a copy of this order. If the applicant is confirmed on the post in his parent Department then the respondent No. 5 i.e. Director General, Indian Council of Medical Research is directed to consider the case of the applicant for counting the past service of the applicant in terms of the decision of the Hon'ble Supreme Court in the case of Praduman Kumar Jain (supra) and the rules on the subject, within a period of four months from the date of confirmation of the applicant.

7. Accordingly, the Original Application stands disposed of interms of the above directions. No costs.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman

पृष्ठांकमें ओ/वर्धा....., जवलपुर, दि.
पतिनिधि आवाज़ डिअ: :-

"SA" (1) सहित, उच्च व्यापाराय वार एन्ड विलेन्स, जवलपुर
(2) आखेरक श्री/श्रीमती/यु. के काउंसल
(3) प्रत्यावाही श्री/श्रीमती/यु. के काउंसल
(4) व्यापारा, कोपा, जवलपुर व्यापारीठ
सूचना एवं आवश्यक कार्यवाही हेतु

Shri A.P. Shakti HC-137
Shri S.P. Sinha 114 JN/1
Shri S.A. Phanath 101 C/1
Shri A. Adhikar 4 C/1

Issued
On 4-10-04