

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No.24 of 2001

Jabalpur, this the 5th day of November, 2003

Hon'ble Shri M.P.Singh-Vice Chairman

Durga Prasad Nema, aged 59 years,
son of Shri J.C.Nema, working as
Physical Education Teacher(PET)
in the Kendriya Vidyalaya,Khamaria,
Jabalpur (MP)

- APPLICANT

(By Advocate- Shri P.N.Dubey)

Versus

1. Commissioner, Kendriya Vidyalaya Sangathan,
18, Institutional Rea, Shahid Jeet Singh Marg,
New Delhi.
2. Assistant Commissioner, Kendriya Vidyalaya
Sangathan, Jabalpur Region, K.V., G.C.Fy. Campus,
Jabalpur.
3. State of M.P. Through Secretary School Education,
Govt. of M.P., Vallabh Bhavan, Bhopal.
4. Principal, Govt. Higher Secondary School,
Bakaswaha, Distt. Chhaterpur (MP)

- RESPONDENTS

(By Advocate - Shri M.K.Verma for respondents 1 & 2)

O R D E R (Oral)

The applicant has filed this Original Application seeking a direction to respondent no.1 to count his services for the period from 13.9.1961 to 18.7.1975¹⁹⁷⁵ for pension and gratuity.

2. The brief facts of the case are that the applicant has worked as Physical Education Teacher under Kendriya Vidyalaya Sangathan (for short 'KVS'). Prior to his joining the KVS, he had worked as Lower Division Teacher at Government Higher Secondary School, Baksawaha in Chhatarpur District and thereafter as P.T.I. in Government Higher Secondary School at Damoh. While working under respondent no.3, the applicant had applied through proper channel for the post of PET under KVS. He was selected and issued appointment order to join at Singrauli. He was relieved of his duties vide order dated 18.7.1975 to join his new post. The applicant was required to submit his resignation. The applicant submitted his resignation

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on 19.7.1975 which was accepted by the then Divisional Education Superintendent vide order dated 21.7.1975. In pursuance of his resignation from the previous service and joining the establishment of KVS, the balance of GPF accumulated during the service of the applicant, was transferred vide memo dated 14.4.1980. Vide circular dated 22.10.1990 the respondents invited applications from teachers who had served under other employers for purposes of counting their past service. In pursuance of the said circular, the applicant submitted an application on 16.12.1990. His application was forwarded by the Principal vide memo dated 24.10.1990. Again the applicant preferred another representation on 2.1.2000. As no relief was granted to him, he filed an O.A.No.905 of 2000 before this Tribunal seeking a direction to the respondents to count his service rendered by him w.e.f. 13.9.1961 to 18.7.1975 for the purposes of pension and gratuity. The Tribunal vide its order dated 2.11.2000 directed the applicant to submit another representation to the respondents and the respondents were directed to consider his representation in accordance with the rules on the subject and disposed of the same by a speaking order within six weeks.

3. The contention of the respondents is that one of the basic conditions for counting of past services rendered by State Govt./Central Govt. employees in Govt./Autonomous bodies is that the Central/State Govt. must discharge pensionary liabilities by one time pro-rata payment. Since his previous department has not discharged the liability of ^{payment of} pro-rata pensionary benefit for the service rendered by the applicant, the request of the applicant for counting of past service cannot be dealt with. The respondents have further contended that the KVS has already written letter to his previous department on 10.12.1999 (Annexure-I). The respondents have conceded that if pro-rata pensionary benefits for the service rendered by

the applicant in MP State Government is received from MP State Government, KVS is ready to count his previous service rendered in MP Govt. with KVS.

4. I have heard the learned counsel for both the parties. The learned counsel for the applicant submitted that it is for the KVS to take up the matter with the State Government for the payment of pro-rata pensionary benefits. For this, the applicant should not be made to suffer. On the other hand the learned counsel for the respondents submitted that unless and until the State Government make the payment of pro-rata payment to discharge their pension liability, the applicant cannot be given benefit of counting the past service.

5. On consideration of the pleadings available on record and after hearing the learned counsel for the parties I find that as per rules the service of the applicant rendered in the State Government is to be counted for the purpose of pensionary benefits. The KVS is not granting the benefit of past service because the State Government is not making the payment of their pension liability for the period the applicant has served with the State Government. It is because of the non-cooperation of the State Government, the KVS is not able to grant the benefit to the applicant. and for this the applicant is suffering for no fault of him. Accordingly, we direct the respondent-KVS to sort out the matter with the State Government and if need be by deputing an officer to the concerned department of the State Government to settle the matter and thereafter count the service of the applicant for the period 13.9.1961 to 18.7.1975 as requested by the applicant. The aforesaid directions be complied with within a period of three months from the date of communication of this order. The OA is accordingly disposed of. No costs.


(M.P. Singh)
Vice Chairman.