

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT Sittings: BILASPUR

Original Application No.1124 of 2000

Jabalpur, this the 16th day of July, 2004

Hon'ble Shri M.P.Singh - Vice Chairman
Hon'ble Shri Madan Mohan - Judicial Member

Surjeet Singh Bhatia ,
3/231, Raja Talab,
Raipur (M.P.)-492 00 1.

- APPLICANT

(By Advocate - Shri M.K.VERMA)

Versus

1. Secretary to the Govt.of India,
Ministry of Water Resources, Sharam
Shakti Bhawan, New Delhi-110 001.
2. The Secretary, Central Water Commission,
Sewa Bhawan, R.K.Puram, New Delhi-110 066.
3. The Controller of Accounts, Ministry of
Water Resources, E-Block, Shastri Bhawan,
New Delhi-110001.
4. The Superintending Engineer, Planning Circle,
Central Water Commission, NH-IV, Faridabad,
(HARYANA) -121001

- RESPONDENTS

(By Advocate - Shri K.N.Pethia)

O R D E R

By M.P.Singh, Vice Chairman -

By filing this Original Application, the applicant has claimed number of reliefs. However, during the course of arguments, the learned counsel for the applicant has submitted that he will feel satisfied if only the relief relating to grant of pension and other retiral benefits is considered by the Tribunal.

2. The brief facts of the case are that the applicant was appointed as Draughtsman Gr.II in the scale of Rs.150-240 in the Office of the Executive Engineer, Works Division, Mana Camp, Raipur (M.P.) in the Department of Rehabilitation under the Ministry of Rehabilitation, Govt.of India, Mana Group of Transit Centres, Raipur(M.P.) with effect from 26.7.1965. He was declared quasi permanent in the said post vide order dated 13.2.1973 with effect from 26.7.1968. As per the policy

of the Government, the Mana Camp was closed and the services of the applicant were placed at the disposal of Central (Surplus Staff)Cell of the Department of Personnel and Administrative Reforms. Thereafter, the applicant was transferred to the Central Water Commission under respondents 1 to 4, vide order dated 29.9.1976. The applicant was also treated as quasi-permanent employee in the Central Water Commission as is evident from Annexures-A-5 and A-6.

3. While the applicant was on leave, he was transferred from the Investigation Division, Central Water Commission, Raipur to Tipaimukh Investigation Circle, Shillong (Assam) vide order dated 21.11.1980 (Annexure-A-8). The applicant did not join his new place of posting. Thereafter, he was served with a notice of termination of service under Rule 5(1) of Central Civil Services (Temporary Services) Rules, 1965 on 10.5.1984 (Annexure-A-9). Subsequently, his services were accordingly terminated. The applicant has filed an OA No.77/1986 challenging the order of termination of his services, which was dismissed by the Tribunal vide order dated 11.5.1988. An SLP filed against the said order was also dismissed by the Hon'ble Supreme Court on 21.11.88. Now, the applicant by filing this OA has claimed that as he has worked for more than 19 years his services could not have been terminated under the CCS(TS) Rules, 1965 and he is entitled for grant of all pensionary benefits. According to the learned counsel for the applicant, the applicant was declared quasi-permanent while working in the Mana Camp and thereafter on his declaration as surplus, he was redeployed with the Central Water Commission against a permanent post and also became quasi permanent. Therefore, the applicant cannot be considered as a temporary Government servant and he is entitled for benefits granted to the quasi/permanent Government employees. In support of his claim the learned counsel has relied on the provisions of Rule 24 of the Central Civil Services (Pension) Rules, 1972. He has submitted

that as per Rule 24, the services rendered by the applicant before his redeployment are required to be taken into consideration for purposes of determining the pensionary benefits.

4. On the other hand, the learned counsel for the respondents has stated that the applicant is not entitled for any pensionary benefits as he was not declared quasi-permanent and he was not deployed in a permanent capacity. He has submitted that the issue relating to the fact that the applicant was temporary and his services were terminated under Rule 5(1) ibid has already been decided by this Tribunal in the earlier OA 77/1986 filed by the applicant and the same has attained its finality as the SLP filed against the said order of the Tribunal was dismissed by the Hon'ble Supreme Court vide order dated 11.5.1988 as stated above. He has also submitted that since the applicant was not a permanent Government servant, he could not be granted the pensionary benefits.

5. We have given careful consideration to the rival contentions advanced on behalf of both the counsel.

6. We find that the applicant was appointed as Draughtsman Grade-II in the Mana Camp in 1965. When the Mana Camp was closed, the applicant was declared surplus and was redeployed with the Central Water Commission through Department of Personnel & Training. The applicant has been transferred from Investigation Division, Central Water Commission, Raipur to Tipaimukh Investigation Circle, Shillong (Assam) vide order dated 21.11.1980. He did not join there and, therefore, the services of the applicant were terminated under Rule 5(1) ibid. The contention of the learned counsel for the applicant that the applicant was working in permanent capacity and his services could not have been terminated under the CCS(TS) Rules, 1965, as he was declared quasi-permanent, is not tenable as this issue has already been decided by the Tribunal in the earlier OA 77/86 filed by the applicant and the SLP filed against the said order



has been dismissed by the Hon'ble Supreme Court vide order dated 21.11.1988. As regards the other contention of the learned counsel for the applicant that the services rendered by the applicant before his redeployment are required to be taken into consideration for purposes of determining the pensionary benefits in terms of Rule 24 ibid, we find that the Govt. of India's decision below Rule 24 ibid provides that "A Government servant whose services are terminated for failure to pass prescribed examination and who is appointed to another post without any break, will count his previous service towards leave and pension". Thus, we find that this rule is not applicable in the case of the applicant. This rule 24 only deals with forfeiture of service on dismissal and removal, and does not deal with the issue of entitlement of pension to a Government servant.

7. The issue to be considered by us is whether the applicant being a temporary Government servant is entitled for grant of pensionary benefits. Rule 13 of the CCS(Pension) Rules, 1972 deals with qualifying service for grant of pension and reads as follows:-

"13. Commencement of qualifying service.-

Subject to the provisions of these rules, qualifying service of a Government servant shall commence from the date he takes charge of the post to which he is first appointed either substantively or in an officiating or temporary capacity.

Provided that officiating or temporary service is followed without interruption by substantive appointment in the same or another service or post".

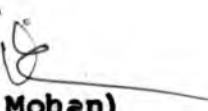
In the present case, the applicant has earlier worked in the Mana Camp, and also thereafter on redeployment has worked in Central Water Commission where he was not appointed in substantive capacity till his services were terminated under Rule 5(1) ibid. It is, therefore, not in dispute that the applicant was only working in temporary capacity and, therefore, he is not entitled for any pension.

8. Before we may part, we may observe that the applicant has rendered about 19 years of service. He was declared quasi-permanent in Mana Camp, and thereafter redeployed in Central Water Commission, where he was treated as a quasi-permanent

This fact has not been denied by the respondents in their reply. In other words, the applicant has worked against a permanent post also but he has been deprived of the pensionary benefits because he was not appointed in a substantive capacity. The Hon'ble Supreme Court in the case of Yashwant Hari Katakkar Vs. Union of India & ors, 1995 Lab.I.C.718

has observed that the person working in for more than 10 years cannot be treated as a temporary Government servant and should be treated as a permanent Government servant and be granted all pensionary benefits. In view of the legal position settled by the Hon'ble Supreme Court, we may direct the applicant to submit a representation to the respondents within four weeks from the date of receipt of a copy of this order. If he complies with this order, we direct the respondents to consider his representation sympathetically and take a decision by passing a detailed and reasoned order, within a period of four months from the date of submission of the appeal by the applicant.

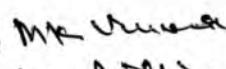
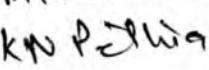
9. In the result, the OA is disposed of with the above observations. No costs.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman

rkv.

*I issued
On 22-7-04
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पृष्ठांकन सं. ओ/न्या.....जवलपुर, दि.....
प्रतिलिपि ऑफिसिल:—
(1) सचिव, उच्च न्यायालय बाट ट्रॉनिशन, जवलपुर
(2) अधिकारी श्री/श्रीमती/चु..... दो काउंसल
(3) प्रत्यक्षी श्री/श्रीमती/चु..... दो काउंसल
(4) विधायक, दोपरा, जवलपुर न्यायपीठ
सूचना एवं आकर्षक कार्यवाली हेतु 

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