

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORDER SHEET

ORDERS OF THE TRIBUNAL

11.08.2009

OA No. 346/2009

Mr. Amit Mathur, counsel for applicant

Heard the learned counsel for the applicant.

For the reasons dictated separately, the OA stands disposed
of at admission stage.



(M.L. CHAUHAN)
Judl. Member

R/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 11th day of August, 2009

OA No.346/2009

CORAM:

HON'BLE MR. M.L.CHAUHAN, MEMBER (JUDL.)

D.S.Kalwar
s/o Shri Pratap Singh Kalwar,
r/o Indira Gandhi Nagar,
DCM Kota,

.. Applicant

(By Advocate: Shri Amit Mathur)

Versus

1. Union of India through its Secretary, Ministry of Communication, Department of Post, Dak Bhawan, New Delhi.
2. Department of Post, Postmaster General, Southern Region, Ajmer.

.. Respondents

(By Advocate:)

ORDER (ORAL)

The applicant has filed this OA thereby praying for the following reliefs:-

- i) the respondents may be directed to give the benefit of complete qualifying service to the applicant by treating his qualifying services as more than 29 years. They may further be directed to release the benefit of

62

pension to the applicant by treating him the employee rendered services in the group of 28-33 years. The respondents may further be directed to make the payment of arrear after fixation alongwith the interest over the due amount @ 18% per annum.

- ii) Any other appropriate relief, which this Hon'ble Tribunal may feel proper in the facts and circumstances of this case, may kindly be allowed.

3. Briefly stated, facts of the case are that the applicant while working as Sub Postmaster, Indira Gandhi Ngar, Kota was proceeded with disciplinary proceedings and ultimately, he was awarded penalty of compulsory retirement. It may be stated that during the pendency of the disciplinary proceedings, the applicant was also placed under suspension for the period w.e.f. 1.10.1980 to 5.01.1982. Ultimately, the period of suspension after conclusion of disciplinary proceedings was regularized by granting him 61 days Earned Leave whereas the remaining period was treated as Extra Ordinary Leave. Being aggrieved, the applicant has filed OA No.41/2004 before this Tribunal. This Tribunal vide its judgment dated 26.7.2005 directed the respondents to treat the period of extraordinary leave as qualifying service for the purpose of pension. From the material placed on record and more particularly, from Ann.A/3 it is evident that the qualifying service of the applicant has been reckoned as 29 years 3 months and 11 days as per revised calculation sheet. It is on these basis, the applicant has filed this OA praying for the reliefs as mentioned above.

4. I have heard the learned counsel for the applicant at admission stage.

le

5. The grievance of the applicant is two fold. First grievance of the applicant is that on the basis of qualifying service which was worked out ^{in pursuance of} ~~prior~~ to rendering of the judgment by this Tribunal he has not been paid the pensionary benefits in terms of revised calculation sheet whereby the qualifying service of the applicant has been assessed as 29 years 3 months and 11 days. The second grievance of the applicant is that since he has rendered more than 28 years of service and falling within the group of 28-33 years, as such, his qualifying service has to be treated as 33 years and respondents may be directed to pay him arrears after fixation alongwith interest.

6. I have given due consideration to the submissions made by the learned counsel for the applicant. According to me, the applicant is not entitled to the additional benefit of qualifying service which are available to the those employees who sought retirement after completion of 30 years of qualifying service in terms of Rule 48(i). The addition in qualifying service is admissible only to those employees who sought voluntary retirement in terms of Rule 48 and 48-A of the CCS (Pension) Rules as is envisaged under Rule 48-B or clause (k) of Rule 56 of Fundamental Rules but but such benefit is not admissible to the employee who has retired from service as a ^{measure of} ~~mode~~ of punishment in disciplinary proceedings. At this stage, it will be useful to quote Rule 48-B of the CCS (Pension) Rules, 1972, which thus reads:

R

"48-B Addition to qualifying service on voluntary retirement.

(1) the qualifying service as on the date of intended retirement of the Government servant retiring under Rule 48(1)(a) or Rule 48-A or Clause (k) of Rule 56 of the Fundamental Rules or Clause (i) of Article 459 of the Civil Service Regulations, with or without permission shall be increased by the period not exceeding five years, subject to the condition that the total qualifying service rendered by the Government servant does not in any case exceed thirty-three years and it does not take him beyond the date of superannuation.

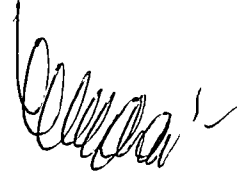
(2) The weightage of five years under sub-rule (1) shall not be admissible in cases of those Government servants who are prematurely retired by the Government in public interest under Rule 48(1) (b) or FR 56 (j)."

7. Thus, in view of the statutory provisions, the contention of the applicant that he should be given additional benefit of qualifying service cannot be accepted. As regards, the contention of the applicant that he is not being paid pension despite the fact that ~~he~~ in the revised calculation sheet qualifying service of the applicant has been treated as 29 years, 3 months and 11 days (Ann.A/3), I am of the view that the matter on this aspect can be looked into by the respondents and they should proceed further in the matter, in case the applicant has not received pension on the basis of revised calculation sheet. Accordingly, respondent No.2 is directed to look into the matter and take steps in the direction of extending benefit to the applicant by treating his qualifying service as 29 years 3 months and 11 days and in case the applicant is not being paid pension on the basis of the revised qualifying service as reckoned vide Ann.A/3 take necessary steps for issuing revised PPO within a period of 3 months from the date of receipt of a copy of this order.

Wg/-

8. With these observations, the OA stands disposed of at admission stage.

9. The registry is directed to send a copy of this order to respondent No.2.



(M.L.CHAUHAN)

Judl. Member

R/