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**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORDER SHEET

ORDERS OF THE TRIBUNAL

13.09.2012

OA No. 21/2011

Mr. P.P. Mathur, Counsel for applicant.

Mr. M.K. Meena, Counsel for respondent nos. 1 & 2.

Mr. Amit Mathur, Proxy counsel for

Mr. R.B. Mathur, Counsel for respondent no. 3.

Heard learned counsel for the parties.

The OA is disposed of by a separate order.

(Anil Kumar)
Member (A)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR.

Jaipur, the 13th day of September, 2012

ORIGINAL APPLICATION No. 21/2011

CORAM :

HON'BLE MR.ANIL KUMAR, ADMINISITRATIVE MEMBER

S.K. Bhargava son of late Shri Sriram Bhargava aged about 62 years, resident of 2, Vivekanand Nagar, Railway Crossing, Jhotwara, Jaipur (Rajasthan). Retired as Regional Provident Fund Commissioner (Grade I).

... Applicant

(By Advocate : Mr. P.P. Mathur)

Versus

1. Union of India through the General Manager, North Western Railway, Jaipur.
2. The Divisional Railway Manager, Jaipur Division, North Western Railway, Power House Road, Jaipur.
3. The Regional Provident Fund Commissioner(s), Employees Provident Fund Organisation, Bhavishya Nidhi Bhawan, 28 Community Centre, Wazirpur Industrial Area, New Delhi.

... Respondents

(By Advocate: Mr. M.K. Meena – Respondent nos. 1 & 2.

Mr. Amt Mathur Proxy to Mr. R.B. Mathur-Respondent no. 3)

ORDER (ORAL)

In this OA the applicant has prayed that the services rendered in the Railways prior to service in Employees Provident Fund Organisation may be counted for the purpose of pension, gratuity and other retrial benefits including leave encashment and the respondents be directed to make the payment of retrial benefits accordingly.

Anil Kumar

2. Brief facts of the case are that the applicant was initially appointed as Commercial Apprentice by the Railway Recruitment Board for the Western Railway in the year 1970. On successful completion of two years training, the applicant was absorbed as Commercial Inspector in the year 1972 and as such posted in Rajkot Division. The applicant in response to an advertisement by the UPSC applied for the post of Provident Fund Inspector Grade I in the year 1978 and was relieved by respondent no. 2 to join the new assignment on 31.08.1979 (Annexure A/3). The applicant retired as Regional Provident Fund Commissioner Grade I from Delhi South on 31.12.2008. The service for the period from 22.11.1972 to 31.08.1979 have been verified by the Railways.

3. During the arguments, it was admitted by the learned counsel for the applicant that the applicant has received his pension from the Employees Provident Fund Organization and he is satisfied with it. Similarly, it was admitted by the learned counsel for the applicant that the applicant has received 300 days leave encashment from the office of the Employees Provident Fund Organization. Therefore, his only grievance remains is with regard to the payment of gratuity. The Provident Fund Commissioner office has granted the gratuity for the period for which the applicant has worked with that office. He has received the gratuity amount but he has not received the gratuity for the period for which he has worked with the Railways. He has 29 years service with the Employees Provident

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Fund Organization. The Railways have verified his service from 22.11.1972 to 31.08.1979. Therefore, he argued that the service rendered by him in the Railways should be included for the purpose of calculating gratuity. This difference in amount of gratuity should either be paid by the Railways or by the Employees Provident Fund Organization.

4. Learned counsel for the Railways argued that as per the letter of DRM, North Western Railways, Jaipur dated 19.05.2009 (Annexure A/1), the liability for pension including gratuity is required to be fully borne by the Employees Provident Fund Organization from which the applicant retired and to support his averment, he referred to the instructions contained in the Pension Memorandum No. 28/10/95 P&W(B) dated 25.10.1996. As such no pro-rata amount is to be remitted to the Employees Provident Fund Organization by the Railways in this case.

5. Learned counsel for the respondent no. 3 i.e., Employees Provident Fund Organization, argued that the applicant is raising his grievance for the period for which he was not in service with their office, therefore, no relief can be given to the applicant by their organization. If the Railway Administration gives pro-rata contribution of the gratuity to the EPF Organization, in that case the gratuity of the applicant can be re-calculated and the balance amount, if any, can be paid to the applicant.

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6. Heard the learned counsel for the parties and perused the documents on record. I have gone through the D.P. & P.W. OM No. 28/10/1995-P& PW (B) dated 25.10.1996. This Memorandum lays down the procedure for counting service rendered by a Central Government employee in the State Government. Therefore, it will not be applicable in the context of the present case because in the present case, the applicant was working in the Railways and not in the State Government prior to his joining in the Employee Provident Fund Organization. However, OM No. 28-10/84-Pension Unit, of the Government of India, Department of Personal & A.R. dated 29.08.1984 would be applicable in the present case. Para No. 3(a)(i) of this Memorandum is quoted below:-

"3(a) In case of Autonomous Bodies where Pension Scheme is in operation-

(i)

The Government/Autonomous Body will discharge its pension liability by paying in lumpsum as a one-time payment, the pro-rata pension/ service gratuity/ terminal gratuity and retirement gratuity for the service up to the date of absorption in the Autonomous Body/ Government, as the case may be. Lumpsum amount of the pro rata pension will be determined with reference to commutation table laid down in CCS (Commutation of Pension) Rules, 1981, as amended from time to time."

According to this, the Railways are supposed to pay lumpsum amount of the pro-rata gratuity to the date of absorption of the applicant in the Employees Provident Fund Organization. Therefore, respondent nos. 1 & 2 are directed to make the payment of lumpsum amount of pro-rata gratuity of the applicant for the period in which the applicant has served

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with the Railways to the Employees Provident Fund Organization within a period of three months from the date of receipt of a copy of this order. Thereafter on receipt of this lumpsum amount of pro-rata gratuity from the Railways, respondent no. 3 is directed to re-calculate the gratuity of the applicant according to law and rules on the subject and make the payment of the balance amount, if any, to the applicant within a period of two months from the date of receipt of pro-rata share of gratuity from the Railways.

7. With these observations, the OA is disposed of with no order as to costs.

Anil Kumar
(Anil Kumar)
Member (A)

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