

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

O.A NO.060/00151/PB/2014

Date of decision : 12.5.2015

CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)

HON'BLE MR. UDAY KUMAR VARMA, MEMBER (A)

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Sumit Kumar, Inspector (Hqrs TRC) Central Commissionerate Ludhiana,
S/o Sh. Jal Singh, R/o H.NO. 56/A, Street No.4, Mandeep Nagar, near
BSNL Telephone Exchange, Rishi Nagar, Ludhiana.

...APPLICANT

BY ADVOCATE: Ms. Hemlata Thakur

VERSUS

1. Union of India through Secretary, Ministry of Finance, Department of Revenue, North Block, New Delhi.
2. Chairman, Central Board of Excise & Customs, Ministry of Finance, Department of Revenue, North Block, New Delhi.

...RESPONDENTS

BY ADVOCATE: Shri Sanjay Goyal

ORDER

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HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J):-

In the present Original Application the applicant assails an order dated 23.01.2014 (Annexure A-5) vide which his representation for counting of his past service towards seniority and other consequential benefits in terms of Rule 26 (2) of CCS (Pension) Rules, 1972 has been rejected.

2. The undisputed facts, which led to filing of the present Original Application, are that the applicant initially joined the respondent-Central Excise and Customs department as Inspector on 19.09.2006 and joined at Commissionerate, Central Excise, Mangalore. Subsequently, he was selected as Inspector and was assigned Commissionerate, Central Excise, Chandigarh, where he joined on 05.10.2009. After joining at Chandigarh he made a representation to the respondents on 26.11.2013 with the request to count his past service for all intents and purposes, which has been turned down by the impugned order dated 23.01.2014. The respondents have relied upon Rule 26 (2) of the CCS (Pension) Rules, 1972 (for brevity, '1972 Rules') and have turned down his request on the ground that the service rendered by the applicant with the earlier employer cannot be counted for other purposes except pension.

3. We have heard learned counsel for the parties and perused the pleadings available on record with their able assistance.

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4. The solitary contention at the hands of the applicant is that in terms of 1972 Rules his previous service is to be counted for all intents and purposes, including seniority. For better appreciation, Rule 26 of the 1972 Rules is reproduced here:

"(2) A resignation shall not entail forfeiture of past service if it has been submitted to take up, with proper permission, another appointment, whether temporary or permanent, under the Government where service qualifies."

5. Perusal of the above extraction makes it clear that if a resignation is submitted with prior permission of the earlier employer then it will not entail forfeiture of past service. This view has also been clarified in Govt. of India's decision attached to the above rule, wherein it is submitted that if the fresh appointment is taken with the prior permission of the earlier employer and before joining the new assignment the employee submitted his resignation, then the same is to be considered as a technical formality and that will not forfeit his past service, which is to be counted for the purpose of fixation of pension. The rule does not talk of grant of service rendered by the applicant for the purpose of seniority and other consequential benefits, except pension, which is not even denied by the respondents.

6. In view of the above rule formation, we find no fault with the impugned order, rejecting claim of the applicant for counting of his past service for providing him seniority at Chandigarh Commissionerate. Moreover, while issuing the order of relieving the competent authority has

already recorded that the applicant is entitled for benefit under Rule 26 (2) of the 1972 Rules only, which does not talk of counting of past service for grant seniority or other consequential benefit on that basis. Accordingly, the OA fails and is dismissed being devoid of merit.

7. No costs.

**(SANJEEV KAUSHIK)
MEMBER (J)**

**(UDAY KUMAR VARMA)
MEMBER (A)**

Place: Chandigarh
Dated: 12.5.2015

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