

50/600

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05**

11

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No.....
R.A/C.P No.....
E.P/M.A No.....

- 1. Orders Sheet..... ⁰⁴ Pg. 1..... to 9.....
- 2. Judgment/Order dtd. ^{MP 134/96 order} ~~05/1/99~~ Pg. 1..... to 8..... ^{102/20143/97}
- 3. Judgment & Order dtd..... Received from H.C/Supreme Court
- 4. O.A..... ^{Amendment of 56/96} Pg. 1..... to 31..... ^{04/56/96}
- 5. E.P/M.P. ^{134/96} Pg. 1..... to 11.....
- 6. R.A/C.P..... Pg..... to.....
- 7. W.S..... Pg. 1..... to 65.....
- 8. Rejoinder..... Pg. 1..... to 17.....
- 9. Reply..... Pg..... to.....
- 10. Any other Papers..... Pg..... to.....
- 11. Memo of Appearance.....
- 12. Additional Affidavit. ^{do the M.P. 134/96 Page 1 to 4}.....
- 13. Written Arguments.....
- 14. Amendment Reply by Respondents.....
- 15. Amendment Reply filed by the Applicant.....
- 16. Counter Reply.....

SECTION OFFICER (Judl.)

Kalita
25/1/18

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI
GUWAHATI

ORIGINAL APPLN.NO. 56/96 OF 1995
TRANSFER APPLN.NO. OF 1995
CONTEMPT APPLN.NO. OF 1995 (IN OA NO.
REVIEW APPLN. NO. OF 1995 (IN OA NO.
MISC. PETN. NO. OF 1995 (IN OA NO.

..... APPLICANT(S)

-VI-

..... RESPONDENT(S)

FOR THE APPLICANT(S) ...MR.

MR.

MR.

MR.

FOR THE RESPONDENTS ...MR.

OFFICE NOTE

DATE

ORDER

22-5-96

Learned counsel Mr.P.K.Tiwari
Mr.B.Mehta for the applicant. Court
has not been submitted. Adjourn
26-6-96 for counter and further

lm

Member

26.6.96

Mr B.K.Sharma for the applicant.
Mr G.Sarma, Addl.C.G.S.C for the respon-
dents.

At the request of learned Addl.
C.G.S.C he is allowed time to submit
written statement.

List on 15.7.96 for written state-
ment and further orders.

Member

15-7-96

Learned counsel Mr.B.K.Sharma for
the applicant. Learned Addl.C.G.S.C.
Mr.G.Sarma for the respondents. Written
statement has not been submitted.

List for written statement and fur-
ther orders on 7-8-96.

Member

lm

5.6.96

Notice delivered
in receipt No. 2.

W/statement has
not been filed

at 25/6

Statement has not
been filed

5/8/96

W/statement on behalf of
office receipt No. at 31-45

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI
GUWAHATI

ORIGINAL APPLN. NO. 56 OF 1995
TRANSFER APPLN. NO. OF 1995
CONTENT APPLN. NO. OF 1995 (IN CA NO.)
REVIEW APPLN. NO. OF 1995 (IN CA NO.)
MISC. PETN. NO. OF 1995 (IN CA NO.)

Mr. h.k. Klare APPLICANT

-vs-
h.o.i RESPONDENT(S)

FOR THE APPLICANT(S) ... MR. B.K. Manna
MR. P.K. Tiwari
MR. B. Mehta

FOR THE RESPONDENTS ... MR. G. Sarma, Addl. C.G.S.C.

OFFICE NOTE

DATE

ORDER

2.4.96

This application is in form and within time
C. F. of Rs. 50/-
deposited vide
IPO BD No. 34574
Dated 27.2.96

By Registrar

Learned counsel Mr P.K.Tiwari moves this application unlisted on behalf of the applicant. Permission granted. Mr G.Sarma, learned Addl.C.G.S.C is present for the respondents.

Mr Tiwari submits that the applicant wants to be treated in the same manner as in the case in Annexure 9(a) and 9(b) of this application. Perused the contents and reliefs sought for in this application. Application is admitted. Issue notice on the respondents by registered post. Six weeks for written statement.

List on 21.5.96 for written statement and further orders.

Member

pg

Requisites are sent
& sent no. 781-84
27.10.96
8/9

3

O.A.56/96

7-8-96

Learned counsel Mr.S.Sarma for the applicant. Learned Addl.C.G.S.C. Mr.G.Sarma for the respondents. Written statement has been submitted and copy thereof served on counsel of the applicant.

List for hearing on 27-8-96.

lm

Member

my
27/8

27-8-96

None is present. List for hearing on 9-9-96.

lm

Member

my
27/8

9.9.96

Leave note of Mr. B.K.Sharma for the applicant. Mr. G.Sarma Addl. C.G.S.C. for the respondents.

List for hearing on 24.9.96.

Member

pg

my
10/9

24.9.96

Mr. S.Sarma for the applicant Mr. G.Sarma Addl. C.G.S.C. for the respondents.

Written statement has been submitted by the applicant on 27.8.96. Copy of the same to be served on the opposite party.

List for hearing on 15.10.96.

Member

tfd

my
15/9

1) Notice duly served on ap. No. 2.
2) Writ served by court.

27/8

Inform to the counsel of both side
27/8/96

6.9.96

Reminder to the w/s filed on behalf of Respts. at 19.

10.9.96

4

O.A. No. 56/96

15.10.96

Mr. B.K. Sharma for the applicant.
Leave note of Mr. G.Sarma, Addl.C.G.S.C.

List for hearing on 19.11.1996.

ba
Member

trd
av
16/11

19-11-96

Mr. B. Mehta for the applicant.
Mr. G. Sarma Addl. C.G.S.C. for the
respondents. Hearing adjourned to
5-12-96.

ba
Member

lm
m
19/11

5.12.96

Mr S. Sarma for Mr B.K. Sharma,
learned counsel for the applicant. Learned
Addl. C.G.S.C. Mr G. Sarma for the
respondents.

List for order on 1.1.1997 together
with M.P.No.134/96.

ba
Member

nkm
m
6/12

1-1-97

To be listed alongwith M.P.134/
on 21-1-97.

ba
Member

lm
m
1/1
21.1.97

To be listed alongwith M.P.134/96
on 7.2.1997.

ba
Member

pg
m
2/11

1) Notice duly served on
Respondt no. 2

2) w/statement & rejoinder
has been filed.

ba
15/11

1) Notice duly served on
op. no. 2

2) w/statement & rejoinder
has ~~not~~ been filed.

ba
15/11

Rejoinder has been
filed on behalf of the
Respondants. At page - 46
to 51.

ba
31/12

20-1-97

1) Notice duly served
on Respondant No-2
2) w/s and Rejoinder
has been filed.

ba

6-2-97

1) Notice duly served
on Respond. No-2
2) w/s and Rejoinder
has been filed.

ba
6/2

10.2.97

Let this case be listed on 14.2.1997.

[Signature]
Vice Chairman

13-3-97

nkm

1) Written statement
filed by the Respondent
at page-31 to 45 14.2.97

1) Rejoinder has been
filed, at page-46 to 61

Mr. G.Sarma, Addl. C.G.S.C. appearing on
behalf of the respondents prays for 3 weeks
time to file objection. Prayer allowed.

List on 14.3.97 for written objection
and further orders.

[Signature]
Vice-Chairman

13/3

22 4 97

trd

18/2

in terms of order

Dated 14.3.97 at page 1 14.3.97

in WP 134/96 (Consolidated)

Mr. G. Sarma filed

Consolidated application

on 14.3.97 to

application

Written statement has been filed.

List for 25.4.97 for further orders.

After receipt of the copy of the
consolidated application the respondents may
file rejoinder within 2 weeks.

[Signature]
Vice-Chairman

to C.G.S.C.

Consolidated

application filed

on 14.3.97

at page 1 to 3

in WP 134/96

Consolidated application

filed on 14.3.97

at page 1 to 3

in WP 134/96

Consolidated application

filed on 14.3.97

trd

18/3

25-4-97

lm

There is no representation. Case is
adjourned till 2-5-97.

[Signature]
Vice-Chairman

2/4

(6)

2-5-97

Mr.G.Sarma learned Addl.C.G.S.C. for the respondents submits that case is ready for hearing.

List for hearing on 27-6-97.

3.6.97

Notice adjourned on receipt No. 4.

[Signature]
Vice-Chairman

lm

215

By

27.6.97

On the prayer of Mr. B.K.Sharma, learned counsel appearing on behalf of the applicant the case is adjourned till 8.8.1997.

w/s. and rejoinder has been filed.

[Signature]
Member

[Signature]
Vice-Chairman

26/6

w/s. and rejoinder has been filed.

trd

7/8

8.8.97

Adjourned to 11-8-97.

8-8-97

11.8.97

passed over for the day.

Memo of appearance filed by Mr. G. Sharma, Addl. C.G.S.C.

By order

12.8.97

Pass over for the day.

By order

14.8.97 pt. heard. Adjourned to

22.8.97.

By order

(7)

X

22.8.97 On the prayer of Mr. G.Sarma, Addl.C.G.S.C the case is adjourned till 5.9.97.

List on 5.9.97 for hearing.

[Signature]
Vice-Chairman

trd

5.9.97 On behalf of Mr B.K. Sharma, learned counsel for the applicant, Mr S. Sarma prays for a short adjournment because of the personal difficulty of Mr B.K. Sharma. Let this case be listed on 26.9.97 for hearing.

[Signature]
Vice-Chairman

w/s. and Rejoinder has been filed.
25/9

nkm
25/9

26.9.97 Adjourned to 31.10.97
By order

w/s. and Rejoinder has been filed.

31.10.97 On behalf of the Mr B.K. Sharma, learned counsel for the applicant, mention has been made that Mr Sharma had suddenly left for Delhi. Let the case be listed on 28.11.97.

[Signature]
Vice-Chairman

27/10

27.11.97

The case is ready for hearing.

nkm
27/11

w/s and Rejoinder has been filed

28.11.97 There is no representation. List on 12.12.97
By order

11/12

8
O.A.56/96

12-12-97

Case is adjourned till 23-1-98

Lm

By Order

23.1.98

There is no representation.
Adjourned to 20.3.98 for hearing

Vice-Chairman

pg

NS
3/2

20.3.98

Mr G. Sarma, learned Addl. C.G.S.C., is out of station. Let this case be listed for hearing on 24.4.98.

Vice-Chairman

nkm

NS
23/3

24.4.98

I have heard Mr B.K. Sharma, learned counsel for the applicant and Mr G. Sarma, learned Addl. C.G.S.C. at some length. During the course of hearing Mr G. Sarma submits that he needs some more instructions in this case and accordingly prays for a short adjournment. Mr B.K. Sharma has no objection. Accordingly the case is adjourned till 1.5.98 for further hearing.

Vice-Chairman

nkm

NS
27/4

1.5.98 Adjourned to 15-5-98.

By order

w/s and Refrainder
has been filed

NS
22/1

w/s and Refrainder
has been filed

NS
19/3

w/s and Refrainder
has been filed

NS
23/4

w/s and Refrainder has
been filed

NS
30/4

w/s and Refrainder has
been filed

NS
14/5

Notes of the Registry

Date

Order of the Tribunal

w/s and Rejoinder has been filed
21/5

15.5.98

On the prayer made on behalf of Mr B.K. Sharma, learned counsel for the applicant, as certain rules are to be traced out, the case is adjourned till 22.5.98.


Vice-Chairman

nkm

21/5

w/s and Rejoinder has been filed
28/5

22.5.98

Mr B.K. Sharma, learned counsel for the applicant, is in bereavement. Accordingly the case is adjourned till 29.5.98. Mr G. Sarma, learned Addl. C.G.S.C. has no objection.


Vice-Chairman

nkm

25/5

w/s and Rejoinder has been filed
11/6

29.5.98

Adjourned to 12.6.98
By Mr.

12.6.98

Mr G. Sarma, learned Addl. C.G.S.C., does not want to argue the case. The case is reserved for judgment.


Vice-Chairman

nkm

16.2.99
Copies of the Judgment issued to the parties through Regd with A/B vide D.No.281 to 286 on 1.2.99
H.P.

8-1-99

Judgment and order pronounced in open Court. Kept in separate sheets. Application is disposed of as indicated above. No costs.


Vice-Chairman

lm

Notes of the Registry

Date

Order of the Tribunal

10

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH ::: GUWAHATI-5.

O.A.No. 56 of 1996

DATE OF DECISION. 8.1.1999.....

Shri Laxmi Kumar Klare (PETITIONER(S))

Mr B. K. Sharma ADVOCATE FOR THE
PETITIONER(S)

VERSUS

Union of India and others RESPONDENT(S)

Mr G. Sarma, Addl. C.G.S.C.

THE HON'BLE MR JUSTICE D.N. BARUAH, VICE-CHAIRMAN

THE HON'BLE

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Vice-Chairman



13

IN THE CENTRAL ADMINISTRATIVE MEMBER
GUWAHATI BENCH

Original Application No.56 of 1996

Date of decision: This the 8th day of January 1999

The Hon'ble Mr Justice D.N. Baruah, Vice-Chairman

Shri Laxmi Kumar Klare,
Area Manager,
Canteen Stores Department,
Narengi Depot, Guwahati.

.....Applicant

By Advocate Mr B.K. Sharma

- Versus -

- 1.. The Unio of India, represented by the Secretary to the Government of India, Ministry of Defence, New Delhi.
2. The Secretary, Department of Personnel & Training, (Pension & Pensionary Welfare Department), New Delhi.
3. The Deputy Director General, Canteen Services, Block-I, Army Headquarter, New Delhi.
4. The Union Public Service Commission, Represented by its Chairman, New Delhi.
5. The General Manager, Canteen Store Depot, ADELPHI, Bombay.

.....Respondents

By Advocate Mr G. Sarma, Addl. C.G.S.C.

.....

O R D E R

BARUAH.J. (V.C.)

In thei application the applicant has challenged the Annexure 8 letter dated 7.2.1996 by which he was intimated about the refusal of the authority to count his past service, and also Annexure 10 Office Memorandum dated 30.5.1995. The applicant has also prayed for an order directing the respondents to count his past service rendered by him in three different organisations towards his pensionary benefits and other reliefs for which the applicant was entitled.

B

2. Facts for the purpose of disposal of this application are:

The applicant, at the material time, was holding the post of Manager Grade I in the Canteen Stores Department (CSD for short) under the Ministry of Defence. Being selected by the UPSC he was appointed by Annexure 1 letter dated 5.7.1993. He joined the services of the CSD in the month of June 1994. Prior to his joining in the said department he had worked under three different organisations during the period from 1978 till the date of his joining the CSD, i.e. 4.6.1994. His claim is that his services in the previous three organisations should be counted which, however, the authority declined. According to the applicant he worked as Milk Procurement Assistant Grade I in Daoba Cooperative Milk Producers Union Limited, Jullandhar City from 6.9.1978 to 30.11.1985. This is an autonomous body registered under the Punjab Cooperative Societies Act, 1961 having share capital of the State Government. Thereafter, he worked under Kapurthala Ferozpur Kshetriya Gramin Bank for the period from 4.12.1985 to 6.4.1987. This Bank was sponsored by the Punjab National Bank and the Central Government had 50% share. Thereafter he worked as an officer JM Grade I in the Bank of Baroda for the period of 5.10.1987 to 4.6.1994. During this period he was selected for the post of Manager Grade I in the CSD. After joining the CSD, by Annexure 5 letter dated 17.2.1995 he prayed for counting of his past service towards pensionary benefits. In the said letter he also mentioned that one Shri M.K. Gupta, A.G.M. working in the CSD had been given the benefit of past services for pensionary purposes. On receipt of the said Annexure 5 letter the Joint Director; Board of Control, Canteen Services.....

B

Services, Army Headquarters, New Delhi made enquiries with the organisations the applicant had served earlier as stated above. In reply to those enquiries the said organisations confirmed the same. Thereafter, his representation was disposed of by the office of the BOCCS by letter dated 31.1.1996 rejecting his prayer for counting his past service for his pensionary benefit. This was communicated to the applicant by Annexure 8 letter dated 7.2.1996. The applicant further contends that at the time of interview by the UPSC for the post of Manager Grade I in the CSD, the applicant specifically urged that he should be given the protection of his past service in the organisations where he had worked earlier. In the Annexure 1 appointment letter dated 5.7.1993 issued to him it has been mentioned that his appointment in the CSD under the Ministry of Defence would be according to the rules. His pay was protected in the CSD by taking into account his past salaries he was getting earlier. Therefore, according to the applicant there was no reason to deny him the benefit of his past services for pensionary purposes. The applicant has further averred that he was entitled to the benefit of past services under the various rules of the Government of India. The applicant has also stated that at the time of entering into the services of the CSD the various circulars and office memoranda in force were applicable to him. However, on the basis of the Annexure 10 Office Memorandum dated 30.5.1995 the respondents refused to give him the benefit of past services. Hence the present application.

3. In due course the respondents have entered appearance and have filed written statement. In the written statement the respondents have disputed the claim

B

of.....

of the applicant regarding counting of his past services. The respondents have admitted that the applicant after appointment in the CSD, urged the authority to count his past services rendered by him in the three different organisations for his pensionary benefit. The respondents have also admitted that the said Shri M.K. Gupta, AGM had been given the benefit of his past services. However, according to them the case of the said Shri M.K. Gupta has no relevance in the case of the applicant. It is further stated by the respondents that as per the Annexure 10 Office Memorandum dated 30.5.1995 the applicant is not entitled to the benefit of his past services. It is also admitted by the respondents that reference had been made to Daoba Cooperative Milk Producers Union seeking confirmation of the past service of the applicant and also the status of the organisation. The respondents have also admitted that the applicant was given pay protection. However, according to them the applicant was not entitled to get the benefit of the past service for his pensionary benefit. In para 7 of the written statement the respondents have tried to distinguish the case of Shri M.K. Gupta, AGM with the applicant. In the concluding part of para 7 the respondents have stated thus:

".....It is admitted that in the case of Shri M.K. Gupta, AGM his past service in the Pradeshik Dairy Federation(UP) has been approved for counting for pensionary benefits during 1992. However, in view of the Department of Pension & PW clarifications vide O.M.No.28/24/94 P & PW(B) dtd.30.5.95 his case will also be reviewed for corrective action, if considered appropriate by the competent authority."

However, the respondents are silent whether such corrective action had been taken or not. In reply to the
B
averment.....

averment made in para 4.10 of the application the respondents have answered the same in para 9 of their written statement whereby they have agreed that the applicant would not be entitled to full pension if the past service is not counted towards pensionary benefits. They have further stated in the said para that the applicant was not entitled to get any redressal as the same was not permissible as per the existing rules.

4. To sum up the contention of the respondents in the written statement is that as per Annexure 10 Office Memorandum dated 30.5.1995 the applicant is not entitled to get the benefit of the past services.

5. I have heard both sides. Mr B.K. Sharma, learned counsel for the applicant submitted before us that the past services rendered by the applicant in the three different organisations stated hereinbefore prior to his joining in the CSD ought to have been counted for his pensionary benefit. This was done in the case of Shri M.K. Gupta, AGM. The respondents had not denied this fact. Mr Sharma further submitted that even the representation of the applicant was not properly disposed of inasmuch as the points raised by the applicant regarding his claim for counting his past services had not been properly dealt with. The original order dated 31.1.1996 issued by BOCCS was not served on him. Only by Annexure 8 order dated 7.2.1996 he was communicated that the authority had rejected his prayer for counting his past services. Mr G. Sarma, learned Addl. C.G.S.C., on the other hand, argued in support of the order passed by the authority.

6. On the rival contention of the learned counsel for the parties, it is now to be seen whether the

B

impugned.....

impugned action of the respondents can sustain in law. The admitted facts are that the applicant had served in three different organisations which are autonomous bodies as mentioned in Annexures 7A and 7B letters. It is also an admitted fact that similar benefit had been given to Shri M.K. Gupta, AGM, but such benefit was refused to the applicant on the basis of Annexure 10 Office Memorandum dated 30.5.1995. It is now to be seen whether the case of the applicant can be distinguished with that of the said Shri M.K. Gupta as claimed by the respondents. The respondents have stated that the past services were counted in respect of Shri M.K. Gupta in the year 1992, whereas the case of the applicant was disposed of in 1995 on the basis of the Annexure 10 Office Memorandum dated 30.5.1995. Though the authority disposed of the matter after the Annexure 10 Office Memorandum the claim was made by the applicant earlier to that, i.e. 17.2.1995. The question is whether Annexure 10 Office Memorandum dated 30.5.1995 was issued giving retrospective effect. On going through the said office memorandum it appears that it is of prospective nature. It is, however, my tentative view. If it is prospective then the applicant's claim should not have been denied on the basis of the said office memorandum. Besides, the said office memorandum shows that inquiries had been made to the effect whether the benefit of counting of past services for the purpose of pensionary benefits as admissible in terms of the Department's Office Memorandum dated 29.8.1984 is to be allowed in the case of mobility of personnel from Government to Nationalized Banks and financial institutions like Life Insurance Corporation of India and General Insurance Corporation, etc. and vice versa. The matter had been considered in the light of instructions issued by the Department in regard to

83

mobility of personnel between Government and non-Government Organisations including Public Sector Undertakings and Autonomous Bodies and it was clarified that such employees were not entitled to count the service rendered in Government for the purpose of pension on absorption in the Nationalised Banks including the Reserve Bank of India and the State Bank of India and its subsidiaries and other financial institutions including Life Insurance Corporation and General Insurance Corporation. It is further stated in the Annexure 10 Office Memorandum that Central Government employees who have rendered service in the Nationalised Banks as well as other financial institutions including Life Insurance Corporation of India and General Insurance Corporation of India prior to their appointment in the Central Government are also not entitled to count such service for pensionary benefits under the Central Government. However, Annexure 10 Office Memorandum does not indicate that it has given retrospective effect.

7. At the time of hearing of this case the records had not been produced. The written statement is also not very clear. The representation of the applicant was also disposed of by a cryptic order. In such circumstances it is not possible for the Tribunal to come to a definite conclusion as to whether the applicant is entitled to the benefit of past services rendered in the three different organisations. This requires a thorough examination of the facts which are lacking in this present application. Therefore, I feel it expedient that the matter should go back to the authority concerned and the authority may decide the same after considering the entire facts and circumstances of the case. The authority may also consider.....

B

consider as to whether Annexure 10 Office Memorandum dated 30.5.1995 can take away the right of the applicant which he had already acquired prior to the date of issue of the said Annexure 10 Office Memorandum.

8. With the above observation the application is disposed of. Considering the facts and circumstances of the case I make no order as to costs.



(D. N. BARUAH)
VICE-CHAIRMAN

nkm

Central Administrative Tribunal
 598
 22 APR 1997
 24
 Section Bench

21
 Filed by
 S. D. Singh
 21-3-97

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL COCHIN BENCH

(An application under Section 19 of the Administrative Tribunals Act, 1985)

Title of the Case : C.A. No. 56 of 1996

Shri Laxmi Kumar Klare Applicant

- Versus -

Union of India and Others Respondents

CONSOLIDATED APPLICATION.
I N D E X

<u>Sl. No</u>	<u>Particulars of the Documents</u>	<u>Page Nos.</u>
1.	Application
2.	Verification
3.	Annexure-1 : Letter dated 5.7.93	
4.	Annexure-2 : Certificate dt. 2.2.95	
5.	Annexure-3 : Certificate dt.	
6.	Annexure-4A : Certificate dt. 4.2.95	
7.	Annexure-4B : Certificate dt. 3	
8.	Annexure-5 : Letter dt. 17.2.95	
9.	Annexure-6A : Letter dtd 28.3.95	
10.	Annexure-6B : Letter dt. 28.3.95	
11.	Annexure-7A : Letter dt. 7.10.95	
12.	Annexure-7B : Letter dt. 18.1.95	
13.	Annexure-8A : Letter dt. 17.12.96	
14.	Annexure-9A : Letter dt. 27.11.92	
15.	Annexure-9B : Letter dt. 22.12.92	

Received to dep.
 2/4/97
 Seen. Pl. do the needful.
 2/4/97

For use in Tribunal's Office:

Date of filing	:
Registration No.	:
REGISTRAR	

22

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH

O.A. NO. _____ of 1996

BETWEEN

Shri Laxmi Kumar Klare,
Area Manager,
Canteen Stores Department
Narengi Depot,
Satgaon, Guwahati.

..... APPLICANT

- AND -

1. The Union of India
represented by the Secretary to
the Government of India,
Ministry of Defence,
New Delhi.
2. The Secretary
Department of Personnel & Training,
(Pension & Pensionary Welfare Department)
New Delhi.
3. The Deputy Director General,
Canteen Services, Block- 1
Church Road, P.O. Army Headquarter,
New Delhi.
4. The Union Public Service Commission,
Dholpur House, Shahjahan Road,
New Delhi.
Represented by its Chairman.
5. The General Manager
Canteen Stores Dept.
ADELPHI
119 Maharshi Krave Road
Bombay-400020

..... RESPONDENTS

DETAILS OF APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE :

The instant application is directed against the letter No. 95033/Rep/LKK/BOCCS dated 31.1.96 purportedly

Contd...P/2

issued by the authority rejecting the claim of the application for counting of his past service towards pensionary benefit. The said decision dated 31.1.96 has been communicated to the applicant vide letter No. 3/AGM(P)/PN-0092/759 dated 7.2.96.

"The application is also directed against the office memorandum No. 28/24/94-PNPW(B) dated 30.5.95 issued by the Government of India, Department of Pen. and Pen Welfare".

2. JURISDICTION :

The applicant declares that the subject matter of the application for which he wants redressal is well within the jurisdiction of this Hon'ble Tribunal.

3. LIMITATION :

The applicant further declares that the application is within the limitation period prescribed under Section 21 of the Administrative Tribunals Act, 1985.

4. FACTS OF THE CASE :

4.1 That the applicant is a citizen of India and presently he has been working as Area Manager, Canteen Stores Department, Narengi Depot, Satgaon, Guwahati.

Thus he is entitled to all the rights, protections and privileges guaranteed by the Constitution of India and the laws framed thereunder.

4.2 That the applicant is aggrieved by the decision of the respondents rejecting his claim for counting of his post services towards pensionary benefit and making a grievance against the same, the instant application has been preferred for appropriate relief.

4.3 That the applicant was appointed to the post of Manager, Grade-I (Group 'A' Gazetted) in the Canteen Stores Department under the Ministry of Defence pursuant to the selection and recommendation of the U.P.S.C. vide Memo No. 95012/Q/BOCCS (Vol-X)/212/S/D(MOV) dated 5.7.93. The applicant joined the service on 10.6.94 pursuant to the said appointment letter dated 5.7.93.

A copy of the said letter dated 5.7.93 is annexed herewith as ANNEXURE 31.

4.4. That prior to the joining in the service of the C.S.D., the applicant had worked under three different organisations from 1978 till the joining at the C.S.D. His first spell of service was for the period from 6.9.78 to 30.11.85 as Milk Procurement Assistant, Grade-I in Daoba Co-Operative Milk Producers Union Limited, Jullandhar City, an autonomous body registered under the Punjab

Co-Operative Societies Act, 1961 having share capital of State Government. His second spell of service was for the period 4.12.85 to 6.4.87 under the Kapurthala Pirozpur Kshatriya Gramin Bank sponsored by Punjab National Bank having 50% share capital of Central Government 35% of Punjab National Bank and 15% of State Government. He was an officer of the said Bank. His third spell of service was as an officer JM-Grade-I in the Bank of Baroda for the period 5.10.87 to 4.6.94. It was during this spell, he was selected by the U.P.S.C. for being appointed as Manager, Grade-I Canteen Stores Deptt. pursuant to which he has joined the services as stated above.

Copy of the certificate dated 2.2.95 in respect of his services under the Daoba Co-Op. Milk Producers Union Ltd. is annexed as ANNEXURE-2.

Copies of the certificates in respect of service under the Kapurthala Firozpur Kshatriya Gramin Bank is annexed as ANNEXURE-3.

Copies of the certificates dated 4.2.95 and 31.1.95 in respect of his services under Bank of Baroda are annexed as ANNEXURE-4A and 4B.

4.5 That the applicant after joining the services of the C.S.D. had applied vide his letter dated 19.2.95

Contd...P/5

for counting of his past services towards pensionary benefits. In the said representation, he highlighted his various spells of service in different organisations and also highlighted as to how the services of one Shri M.K. Gupta, A.G.M. who is also working under the C.S.D. has been counted for pensionary purpose. It was pointed out that said Shri Gupta had served in similar organisation like that of the applicant. It was also clarified that the applicant was ready to pay the employer's share of provident Fund with interest and the gratuity received from his previous employers.

A copy of the letter dated 17.2.95 is annexed herewith as ANNEXURE-5.

4.6 That query was made with the Daoba Co-Operative Milk Producers Union Ltd. In respect of services rendered, by the D.S.D. authorities pursuant to his representation for counting of his past services towards pensionary benefits. Such a query was made vide letter No. 95033/REP/LKK/BOCCS dated 28.3.95. Similar query was made to Kapurthala Firozpur Kshatriya Gramin Gaonlia Bank vide letter of even No. dated 23.3.95. The said queries were replied to by both the organisations vide their letter dated 7.10.95 and 18.9.95 respectively.

Confid...P/6

Copies of the said letters dated 28.3.95 and replies thereto dated 7.10.95 and 18.1.95 are annexed as ANNEXURES-6A, 6B, 7A and 7B respectively.

4.7 That the applicant after the aforesaid development was cherishing in his mind that his past period of service rendered under different organisations would be counted towards pensionary benefits. But to the utter surprise he was communicated vide letter No. 3/AGM(P)/PM-0092/799 dated 7.2.96 in reference to 31.1.96 intimating that his case was examined and on such examination approval has not been accorded for counting of his past service.

A copy of the said letter dated 7.2.96 is annexed herewith as ANNEXURE-8.

4.6 That the applicant states that when he appeared in the interview conducted by the U.P.S.C. for the post of Manager, Grade-I it was specifically urged by him before the Members of the U.P.S.C. for protection of his past services to which the Members also agreed. Accordingly in the appointment letter also in the first clause it was specifically mentioned that his appointment in the C.S.D. under the Ministry of Defence "according to rules". It will be pertinent to mention here that so far the pay of the applicant is concerned that has been protected in his new service under the C.S.D. taking into account the past service rendered by him. Thus there is no earthly reason as to why the same treatment should not

be given to him for the purpose of pensionary benefits as well. The applicant has pointed out in the representation that he is ready to deposit the employers' share of contribution of provident Fund with interest. There is no impediment against counting of such past services for the purpose of pensionary benefit.

4.9 That the applicant states that as stated above one Shri M.K. Gupta before his joining the C.S.D. was an employee of the Pradeshik Co-Operative Dairy Federation Ltd. registered under the U.P. Co-Operative Societies Act, 1965. On his representation for counting of his past services towards pensionary benefit, same has been acceded to and is benefited towards pensionary benefits taking into account his past services rendered under the said Dairy Federation Ltd.

In the above context, copies of the letters dated 27.11.92 and 22.12.92 are annexed herewith as ANNEXURE-9A and 9B.

4.10 That under the aforesaid circumstances, there is no earthly reason as to why the past services rendered by the applicant in various organisations should not be counted towards his pensionary benefit more so when his pay has already been protected and his case is covered under the relevant rules and circulars holding the field which the applicant will be producing at the time of hearing of the instant application.

29

4.11 That the applicant will be great lower if his past services is not counted towards pensionary benefit inasmuch as by the time he retires on superannuation from the service of the C.S.D. he will be completing about 17 years 10 months of service and thereby would be deprived of full pensionary benefit requirement of which is 33 years of service. If the services of the applicant rendered by him in the earlier organisations are counted, it will be more than 30 years of service and thereby he will be benefited towards pensionary benefits.

4.12 That the applicant states that in view of the liberalisation of pensionary scheme and there being no impediment against counting of his past services towards pensionary benefit, more so when others have been given such benefit, there is no earthly reason as to why the applicant should not be given the said benefit by way of counting his past services towards pensionary benefit.

4.13 That the applicant states that in view of the facts and circumstances, the impugned decision purportedly taken by the authorities, under their letter dated 31.1.96, conveyed vide Annexure-8 letter dated 7.2.96 is not maintainable and liable to be set aside and quashed. It will be pertinent to mention here that the purported decision of the authorities reference of which has been made in the Annexure-8 letter dated 7.2.96 has not been communicated to the applicant and he is not aware as to what weight towards issuance of such a letter dated

31.1.96 was given. The respondents may be directed to produce a copy of the said letter dated 31.1.96.

4.14 That the applicant states that although in the impugned order dated 7.2.96, there is no mention as to why the case of the applicant does not fall within the purview of the existing rules, it is the apprehension of the applicant that his request for counting of past service towards pensionary benefit has been turned down on the strength of an P.M. No.28/24/94-PNPW(B) dated 30.5.95.

A copy of the said O.M. dated 30.5.95 is annexed as ANNEXURE-10.

4.15 That the applicant states that the said O.M. although refers to various other O.Ns. issued by the Government of India has virtually taken away the rights accrued to the beneficiary of the earlier O.Ns and thus the same is not maintainable.

4.15 That the applicant states that although said O.M. has been issued purportedly by way of a clarification but in fact, the said O.M. has not is independent existence inasmuch as certain new guidelines having no nexus with the earlier guidelines have been laid down and thus it may not be said to have issued certain clarification only in reference to earlier OMs. It will be pertinent to mention here that in the O.M. it has also been directed to reopen the past cases decided otherwise than the purported clarification issued by this O.M. In any case,

the O.M. dated 30.5.95 cannot have any retrospective application and the past cases settled otherwise cannot be reopened on the strength of this O.M.

4.17 That the applicant states that as indicated in the O.A. as well as in his rejoinder already filed against the written statement of the respondents. The applicant at the time of joining the C.S.D. as Manager was entitled to count his past service towards pensionary benefits on the strength of OMs relied upon by him; but now on the strength of the aforesaid OM dated 30.5.95, such accrued rights have been sought to be taken away retrospectively. The applicant entered into the services of the C.S.D. on 10.6.94 consequent upon his selection by the UPSC and at that time the OM. dated 30.5.95 was not in existence and thus the OMs relied upon by the applicant were applicable to his case and accordingly his past services are required to be counted towards pensionary benefit. However, since his case was not decided before issuance of the aforesaid O.M. dated 30.5.95, and eventually the decision has been taken only on 7.2.96 at Annexure-8 to the O.A. after the issuance of the O.M. dated 30.5.95. The respondents while doing so, have taken a view of the matter inasmuch as they relied upon the O.M. dated 30.5.95 although by the time the same was issued, the applicant has already joined the C.S.D. and the O.Ms. relied upon by him were only applicable to him. In any case, the O.M. dated 30.5.95 cannot be given effect to retrospectively so as to take away the benefits already accrued to the applicant.

4.18 That the applicant states that the O.M. dated 30.5.95 has not its own independent existence inasmuch as although the same has been issued by way of purported clarification, but in fact it lays down certain new guidelines with further direction to reopen the past cases. Thus there is a conflict between the earlier OMs and the present O.M. dated 30.5.95 under challenge. The contents of the O.M. dated 30.5.95 are not counter to the contents laid down in the earlier O.Ms. The applicant at the time of joining the C.S.D. consequent upon his selections by the UPSC was well aware of the said O.Ms and thus was hopeful that his past services would be counted in the C.S.D. towards pensionary benefit. Now after joining the service, the respondents have taken a decision not to do so relying upon the said O.M. dated 30.5.95 which by no stretch of imagination can be made applicable to the case of the applicant so as to have effect of retrospective application.

4.19 That the applicant states that under no circumstances, the said O.M. dated 30.5.95 can be made applicable to his case : otherwise same will be detrimental his service interest. He is required to be extended with the similar treatment as that of Shri M.K. Gupta in whose case necessary approval towards counting of past service has been accorded.

4.20 That in any view of the matter, the aforesaid O.M. dated 30.5.95 is not sustainable and liable to be set aside and quashed.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

5.1 For that prima facie the order purportedly contained in Annexure-8 letter dated 7.2.96 is not sustainable inasmuch as there is no impediment against counting of past services towards pensionary benefit extendable to the applicant.

5.2 For that the relevant circulars/rules holding the filed clearly lay down than under the circumstances as in the case of the applicant the past services of the incumbent should be counted towards pensionary benefit and the respondents having not complied with the same towards issuance of the impugned order, same is not sustainable and liable to be set aside and quashed.

5.3 For that others having been extended with the benefit of counting of past services as has been done in case of Shri M.K. Gupta, there is no earthly reason as to why the applicant should not be extended with similar treatment. Otherwise there will be violation of the Articles 14 and 16 of the Constitution of India.

5.4 For that there has been complete violation of the principles of natural justice inasmuch as before taking the decision by the authority not to count the past services of the applicant towards pensionary benefits, he was not given any opportunity of hearing. He was also not asked to clarify the position and thus he was deprived of a valuable right of being heard.

5.5. For that the organisations under which the applicant rendered his previous services practically being instrumentality of the State and the services rendered in such organisations being accountable towards pensionary benefit, the respondents cannot deny the applicant such benefits. Accordingly, the impugned order is liable to be set aside and quashed.

5.6 For that he having applied through proper channel and he having made it known during the course of interview that he would like to have the benefit of past services to which the Members present in the Interview Board had also agreed and the applicant having acted upon on such assurances and his appointment letter having clearly laid down that his appointment is "according to rules", the respondent cannot turn down the same and take decision contrary to the rules and circulars holding the field and thereby deprive the applicant from his full pensionary benefit.

5.7 For that pension and pensionary benefits being no longer a bounty, but the incumbent is entitled to the same as a matter of right for the services rendered, and there being liberalisation of the pensionary scheme, there respondents cannot interpret the circulars and the rules strictly in favour of the respondents to deprive the applicant from pensionary benefits and accordingly appropriate direction is called for in the instant case for counting the past services of the applicant towards his pensionary benefit.

5.8 For that the respondents having protected the pay of the applicant taking into his past services there is no earthly reason as to why similar treatment should not be given to him towards his pensionary benefit.

5.9 For that when the applicant is agreeable towards fulfilment of all the conditions precedent towards counting of his past services for the purpose of pensionary benefit, the respondents cannot shut their eyes to such a position and to deny the applicant his full pensionary benefit.

5.10 For that the respondents ought to have considered that if the past services of the applicant are not counted, the applicant by the time retire from service on superannuation will complete only 17 years 10 months of service and thereby he will be deprived of the full pensionary benefit. The respondents ought to have taken a liberal approach in the matter of pensionary benefits admissible to the applicant by way of counting his past services.

5.11 For that in any view of the matter, the impugned decision purportedly taken by the respondents is not sustainable in the eye of law and liable to be set aside and quashed, with proper relief to the applicant.

The applicant craves leave of this Hon'ble Tribunal to advance more grounds at the time of hearing of the instant O.A. and in support to produce the relevant circulars holding the field.

: 15 :

5.12 For that the impugned office memorandum dated 30.5.95 is prima facie illegal and not sustainable under the law.

5.13 For that the said O.M. even if held to be valid cannot have any retrospective application so as to take away the accrued service benefit to the applicant.

5.14 For that the O.M. dated 30.5.95 although stated to be by way of clarification of the earlier O.Ms, the contents of the said O.M. and for that matter, the O.M. has not independent existence and accordingly, the said O.M. cannot be stated to be by way of clarification of the earlier O.Ms.

5.15 For that the office memorandum cannot be issued in the name of clarification when it is prima facie found in respect of the said O.M. dated 30.5.95 that certain new guidelines have been laid down independent of the earlier guidelines. Thus it can safely be held that the O.M. dated 30.5.95 has got independent ~~existence~~ existence and the same cannot be stated to be O.M. issuing certain clarification in reference to the earlier O.Ms. By the said O.M. all together a different principle of counting past services has been promoted which came in conflict with the earlier principles of counting past services laid down in different O.Ms, and thus the liberal approach being the attitude towards Pensionary benefit, the said O.M. is required to be

considered in such a manner so that the applicant is not deprived of his pensionary benefits.

5.16 For that the O.M. dated 30.5.95, is direct conflict with all the O.Ms issued earlier on by the same Ministry and accordingly the same is not sustainable and liable to be set aside and quashed.

5.17 For that by issuing such O.M. as the one dated 30.5.95, the respondents cannot take away the accrued benefits of service of the employees and accordingly, the same is not sustainable and liable to be set aside and quashed.

5.18 For that in any view of the matter, the O.M. dated 30.5.95 is not sustainable and liable to be set aside and quashed".

6. DETAILS OF REMEDIES EXHAUSTED :

The applicant states that he has no other alternative efficacious remedy except by way of filing this application.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING BEFORE ANY OTHER COURT :

The applicant further declares that he has not previously filed any application, writ petition or suit regarding the matter in respect of which this

: 17 :

application has been made before any Court of law or other authority and/or other Bench of the Tribunal and/or any such application, writ petition or suit is pending before any of them.

8. RELIEFS SOUGHT :

In view of the facts and circumstances stated above, the instant application be admitted, records be called for and on perusal of the same and upon hearing the parties on the cause or causes that may be shown be pleased to grant the following reliefs :

(i) To set aside and quash the letter No.95033/Rep/LKK/BOCCS/11 dated 31.3.96 purportedly issued by the authorities as conveyed under letter No.3/AGM(P)/PM-0092/759 dated 7.2.96 and for that matter be also pleased to set aside and quash the letter dated 7.2.96 (Annexure-8).

"(i)(a) To set aside and quash the G.M. dated 30.5.95 (Annexure-10)"

(ii) To direct the respondents to count the past services rendered by the applicant in three different organisations towards his pensionary benefit in the C.S.D.

(iii) Any other relief or reliefs to which the applicant is entitled under the facts and circumstances of the case.

(iv) Cost of this application.

9. INTERIM ORDER PRAYED FOR :

The applicant does not pray for any interim relief at this stage but seeks a direction to the respondents that pendency of this O.A. shall not be a bar towards consideration of the case of the applicant for counting of his past services for pensionary benefit under the C.S.D.

10.

The application is filed through Advocate.

11. PARTICULARS OF THE I.P.O. :

- (i) I.P.O. No. :
- (ii) Date :
- (iii) Payable at : Guwahati

12. LIST OF ENCLOSURES :

As stated in the Index.

V E R I F I C A T I O N

I, Laxmi Kumar Klare, aged about 42 years, son of Shri B.Das, presently working as Area Manager, canteen stores Department, Narangi Depot, Guwahati, the applicant, do hereby verify and state that the statements made in paragraphs 1 to 4 and 6 to 12 of the accompanying application are true to my knowledge and those made in paragraph 5 are true to my information derived from records and I have not suppressed any material facts.

And I sign this verification on this the _____ day of March 1996 at Guwahati.

REGISTERED A/D

No. 95012/Q/BOCCS(VOL-X)/212/S /D(MOV)
Government of India
Ministry of Defence
New Delhi, the 04 NOV. 1992
05 July 93

M E M O R A N D U M

Subject:- Recruitment to the post of Manager Grade I/Section Officer
In the Canteen Stores Department, Ministry of Defence

1. On the recommendation of the Union Public Service Commission, the President is pleased to offer to Shri Laxmi Kumar a post of Manager Grade I/ Section Officer(Group 'A' Gazetted) in the Canteen Stores Department under the Ministry of Defence on a pay of Rs. according to rules as recommended by the Union Public Service Commission in the pay scale of Rs. 2200-4000/-.
2. The appointee will also be entitled to draw any other allowances at the rates admissible under and subject to the conditions laid down in rules and orders governing the grant of such allowances in force from time to time.
3. The terms and conditions of appointment are as follows:-
 - (i) The post is permanent but the appointee will be on probation for a period of 2 years from the date of appointment, which may be extended at the discretion of the competent authority. Failure to complete the period of probation to the satisfaction of the competent authority will render him liable to be discharged from service or reversion to his parent Department in case he is holding a permanent post.
 - (ii) During the first 6 months or so, he will be required to undertake practical "on job" training,
 - (iii) If during the probation period he resigns from service, he will be required to refund to the Govt all the moneys paid to him on account of pay and allowances etc for the period of "on job" training.
 - (iv) The appointment during the probation period, may be terminated at any time on one month's notice given by the either side viz the appointee or the appointing authority, without assigning any reasons or by reverting the individual to his parent department, in case he is holding a lien. The appointing authority, however, reserves the right of terminating the services of the appointee forthwith or before the expiry of the stipulated period of probation by making payment to him of a sum equivalent to the pay and allowances for the period of notice or the unexpired portion thereof.

contd...2/-

Altaw

- (v) He will be subject to conditions of service as applicable to civilian Govt servants in the Canteen Stores Department in accordance with the orders issued by the Government of India from time to time. He will also be subject to be found medically fit and Field Service Liability Rules, 1957. He will have also to produce the Integrity Certificate from his Vigilance Department/ Present Employer.
- (vi) He will be required to serve any-where in India.
- (vii) He will not be entitled to any travelling allowances for joining the appointment unless otherwise eligible under the rules.
- (viii) He will be required to take oath/affirm in the following form:-
- "I do swear solemnly affirm that I will be faithful and bear true allegiance to India and to the Constitution of India as by Law established and that I will uphold the sovereignty and integrity of India and that I will carry out duties of my office loyally, honestly and with impartiality (So help me God)".
- (ix) In accordance with the Central Civil Service (Conduct) Rules, 1955, he will not be eligible for appointment under Government of India, if he has more than one wife living. He is, therefore, requested to complete the declaration in the attached form and forward it to this Ministry alongwith his acceptance.
- (x) If any declaration given or information furnished by the candidate proves to be false or if the candidate is found to have wilfully suppressed any material information, he will be liable to removal from service and such other action as the Government may deem necessary.
- (xi) His seniority in the past shall be decided also separately in accordance with the rules applicable to Civilian Government Servants in the Canteen Stores Department in accordance with the orders issued by the Government of India, from time to time.

4. He is required to produce the original documents/certificates in support of his education qualification/ age, experience and so on at the time of joining service to the office of General Manager and Chairman, Board of Administration, Canteen Stores Department, Bombay, for scrutiny/ confirmation.

5. If Sh Laxmi Kumar accepts the offer on the terms and conditions detailed above he should intimate his acceptance of the offer within 10 days of the receipt of this Memorandum to the Dip of Def with copy to the Secretary, Board of Control, Canteen Services and the General Manager and Chairman Board of Administration, Canteen Stores Department, 'ADLPHI', 119, Maharshi Karve Road, Bombay-400 020 and should report for duty

....contd..3/-

Handwritten signature

to the General Manager and Chairman Board of Administration,
Canteen Stores Department, 'ADELPHI', 119, Maharshi Karve Road,
Bombay on or before ~~11 Dec 92.~~

12th August 93

6. If the acceptance of the offer of appointment is not received from him within the stipulated time mentioned in para 5 above, it will be construed as unwillingness on his part to take up the appointment and this offer will be treated as cancelled.

(PRAKASH CHAND)

Under Secretary to the Govt of India

To

Sh Laxmi Kumar
Bank of Baroda
UPO:Kudaya-242301
Vaya;Miranpurkatra
Jilla:Shahjahanpur
Pin-242301

Copy forwarded to:-

The Secretary
Union Public Service Commission,
Dholpur House, Shahjahan Road,
NEW DELHI-110 011

- For information.
W.r.t. their letter No.
F1/263/91-RV1 dated
05 Mar 92.

The Secretary
Board of Control
Canteen Services
Block L-II, Room No.16
Church Road
NEW DELHI-110 001

The General Manager and Chairman, - It is requested that the
Board of Administration, medical examination of
Canteen Stores Department, Sh Laxmi Kumar may please
"ADELPHI", 119, Maharshi Karve Road be got carried out by INS,
BOMBAY-400 020 Ashwani Bombay.

Controller of Defence Accounts (CSD)
Adelphi, 119, Maharshi Karve Road
BOMBAY-400 020

Allex



Grams : COOPMILK

P.S.T. No. 33032618 Dt. 2-2-73
C.S.T. No. 33032618 Dt. 5-2-73

Phones [M.D's Office 74451, Resi. 74452
PBX : 72301, 72346, 75650

The Doaba Co-operative Milk Producer's Union Ltd;
G. T. Road, Bye-Pass,
JALANDHAR-8 (Pb.)

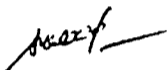
No. DMUI..... Admn/OA-2/ 24425

Dated... 2-2-95

TO WHOM IT MAY CONCERN.

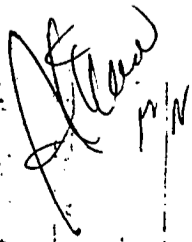
It is certified that Sh. Laxmi Kumar Son of Shri Banarsi Dass resident of Mohalla Arya Nagar, Kartarpur, Distt. Jalandhar has worked with this Milk Union from 6.9.1978 to 30.11.1985 as Milk Procurement Assistant Grade-I.

It is further certified that our organisation is registered under the Punjab Cooperative Society Act, 1961 and it is an autonomous body.


Managing Director.



OPERATION FLOOD





- 18 -

ANNEXURE - 3

KAPURTHALA - FIROZPUR

KSHETRIYA GRAMIN BANK

Sponsored By : PUNJAB NATIONAL BANK.

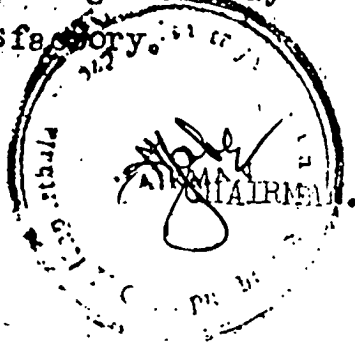
ਕਪੁਰਥਲਾ ਫਿਰੋਜ਼ਪੁਰ ਕਸ਼ੇਤਰੀਆ ਗ੍ਰਾਮੀਨ ਬੈਂਕ

ਪ੍ਰਬੰਧਕ : ਪੰਜਾਬ ਨੈਸ਼ਨਲ ਬੈਂਕ

Ref. No. RRB/ 9723/87 Head Office Jalandhar Road, Kapurthala, Punjab, India. Dated: 08.08.87

To whom so ever it may concern.

Certified that Sh. Laxmi Kumar S/O
Sh. Banarsi Dass has worked in our bank
as officer from 04.12.85 to 06.04.87.
His work and conduct during his stay
at ours had been satisfactory.



H. O. Jalandhar Road, Kapurthala (A joint undertaking of Centre & State Govt.)
ਹੈਡ ਆਫਿਸ : ਜਲੰਧਰ ਰੋਡ, ਕਪੁਰਥਲਾ (ਕੇਂਦਰ ਅਤੇ ਪੰਜਾਬ ਸਰਕਾਰ ਦਾ ਸਾਂਝਾ ਉਪਕਰਮ)
Telegrams : Gramin Bank Telephone : 2774

A. (Signature)

आफ बड़ौदा

(प्रधान कार्यालय : मंडवी, बड़ौदा)

- 19 -

ANNEXURE- 4A

Bank of Baroda

[Head office : Mandvi, BARODA]

क्षेत्रीय कार्यालय (शाहजहाँपुर क्षेत्र)
गोविन्दगंज, शाहजहाँपुर-242 001
फोन : 2169
तार : 'रेगडोरब'



Regional Office
(Shahjahanpur Region)
Govindganj, Shahjahanpur-242 001
Phone : 2169
Gram : 'REGDORAB'

सं०/No.

UPWS:06:STF:2660


दिनांक/Date

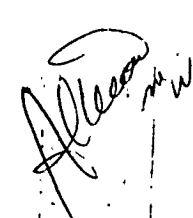
04.02.1992

TO WHOMSOEVER IT MAY CONCERN

This is to certify that Mr. Luxmi Kumar Klare S/o Shri Banarsi Dass has been working as an Officer since 5th October, 1987, in our Bank. He is performing all the duties allotted to officer in the Bank and presently drawing salary Rs.4,788.45 (Basic Rs.2,700/- + Dearness Allowance Rs.2,088.45) and House Rent extra.

We have no objection on his appearing in the interview for the post of Manager Grade I/ Section Officers conducted by the Union Public Service Commission, New Delhi.


SENIOR MANAGER (ADMN).





Bank of Baroda

(Head Office : MANDVI BARODA)

बैंक ऑफ बड़ौदा

(प्रधान कार्यालय : मण्डवी, बड़ौदा)

Phones : (O) 79674, 72505 (R) 271111

Telex : 0305 249 JIDR

Gram : JULDORAH

पोस्ट वाचन नं 70/P B. No. 70.

जी. टी. रोड, G. T. Road.

जालंधर/JALANDHAR 141001.

सं/NO, B.R. ST. 95: 30.

दिनांक/Date 30-01-95

TO WHOMSOEVER IT MAY CONCERN.

Certified that Shri Laxmi Kumar Klare (EC NO. 58040)
Ex-Officer(JM Gr.1) who was last posted at our Branch
had applied through proper channel to Join Canteen
Store Department (Ministry of Defence).

He had resigned from the Bank Service w.e.f. 04.06.1994.

He has the following leave balance at his Credit at
the time of his resignation :-

- | | |
|--------------------------------|-------------------------------|
| 1) Privilege Leave. | 43 days (Forty three days) |
| 2) Casual Leave | 7 days (Seven days.) |
| 3) Medical Leave. | 38 days (Thirty eight days.) |
| 4) Converted Medical
Leave. | 4 days. (Four days.) |

M. Singh
Ag. Chief Manager.

Place : Jalandhar.

dated : 30.01.1995.

Handwritten signature

L. K. KLARE
MANAGER (P) - 21 -

Govt. of India, Ministry of Defence,
CANTEEN STORES DEPARTMENT,
'Adelphi', 119, Maharshi Karve Road,
Bombay - 400 020.
Phone : Off. : 2037120/40/42/80
Extn : 212

Dt. : 17-02-95

The Dy. Director General,
Canteen Stores,
L-I Bldg., Room No. 16,
Church Road,
New Delhi.

(Through Proper Channel)

Sir,

SUB : COUNTING OF PAST SERVICE FOR PENSION PURPOSE ONLY.

I was appointed as Manager Grade-I in Canteen Stores Department. On the recommendation of UPSC. I have reported on 10.6.94 in Head Office Bombay.

Prior to joining CSD NO, I have served in three organisation as under :-

	<u>From</u>	<u>To</u>	<u>Status</u>
1) The Doada Co.Op. Milk Producers Union Ltd. Jalan 'ar City.	06.09.78	30.11.85	Autonomous Body
2) Kapwathala Pirosepur, Kshatriya Granth Bank	04.12.85	06.04.87	- do -
3) Bank of Baroda	05.10.87	04.06.94	- do -

..2/-

KLARE
M

L. K. KLARE
MANAGER (P)

- 22 -

Govt. of India, Ministry of Defence,
CANTEEN STORES DEPARTMENT,
'Adelphi', 119, Maharshi Karve Road,
Bombay - 400 020.
Phone : Off. : 2037120/40/42/80

4/7

2

My past service of the above organisation may please be counted for pension purpose. I may also bring to your kind notice that the past service of Mr. M.K. Gupta, AGN (Secy) has already been counted for pension purpose. Mr. Gupta has served in the similar organisation as shown in Sr.(i) above. I am ready to pay the employer's share of Provident Fund with interest and gratuity received from my previous employers.

You are requested to please count my past service for pension purpose.

Thanking you,

Yours Faithfully,

(Signature)

(LAXMI KUNAR KLARE)
MANAGER GRADE-I
PF -0092

- Encl : 1) Experience Certificate
2) Certificate regarding applied Through Proper Channel
3) Certificate regarding autonomous body
4) Other relevant documents.

(Signature)

Tels : 3019563

ANNEXURE - 6A
23
Secretariat
Board of Control
Canteen Services
Block L-1
Room No. 16
Army Headquarters
New Delhi - 110001

No. 95033/REP/LKK/BOCCS

23 Aug '95

Director
The Doaba Co. Op
Milk Producers
Union Ltd
Jalandhar City

COUNTING OF PAST SERVICE FOR
PENSION PURPOSE

1. Shri L K Klare has been appointed as Manager Grade I/SO in Canteen Stores Deptt, Min of Def, w e f 10 Jun' 94 on the recommendations of UPSC. He has represented that prior to joining CSD, he was in your department from 6 Sep 78 to 30 Nov' 85. He has also stated that your organisation is an autonomous body and the service rendered by him may be counted for pensionary purposes. "Central Autonomous Body" means a body which is financed wholly or substantially from cess or Central Government Grants "Substantial" means that more than 50 percent of the expenditure of the autonomous body is met through cess or Central Govt grants. It includes a Central Statutory Body - a Central University but does not include a public undertaking. Nationalised Banks, RBI, SBI and its subsidiary banks, LIC, General Insurance Corporation of India and its four subsidiaries are treated as autonomous bodies for this purpose".
2. Please clarify whether your organisation is an autonomous body as per definition given at para 1 above.
3. It is requested that an immediate clarification may please be given to this office to take further necessary action on the representation of Shri

(CS Kalra)
Lt Col
Jt Dir Canteen Services

23/8
23/8

Handwritten signature/initials in the bottom left corner.

24
21
ANNEXURE-6B
Tele : 3019563

Secretariat
Board of Control
Canteen Services
Block L-I
Room No. 16
Army Headquarters
New Delhi - 110001

No.95033/RBP/LXX/BOCCS

23 Aug' 95

Director
Kapurthala
Firozpur Kshatriya Gramin
Bank
Kapurthala

COUNTING OF PAST SERVICE FOR
PENSION PURPOSE.

1. Shri L. K. Klare has been appointed as Manager Grade I/80 in Canteen Stores Department, Min of Def, wef 10 Jun'94 on the recommendations of UPSC. He has represented that prior to joining CSD, he was in your department from 04 Dec' 85 to 06 Apr' 87. He has also stated that your organisation is an autonomous body and the service rendered by him may be counted for pensionary purposes. "Central Autonomous Body" means a body which is financed wholly or substantially from cess or Central Government Grants. "Substantially" means that more than 50 percent of the expenditure of the autonomous body is met through cess or Central Govt grants. It includes a Central Statutory Body or a Central University but does not include a public undertaking. Nationalised Banks, RBI, SBI and its subsidiary banks, LIC, General Insurance Corporation of India and its subsidiary are treated as autonomous bodies for this purpose".

/four

2. Please clarify whether your organisation is an autonomous body as per definition given at para 1 above.

3. It is requested that an immediate clarification may please be given to this office to take further necessary action on the representation of Shri KL Klare.

(Handwritten signature)

(GS Kalra)
Lt Col
Jt Dir Canteen Services

cc (K.L.)
23/8

(Handwritten signature)



Grams : COOPMILK

P.S.T. No. 33032618 Dt. 2-2-73
C.S.T. No. 33032618 Dt. 5-2-73

Phones | M.D's Office 290451, Resi. 290452
PBX : 290301, 290650, Purchase Sec. 291628

The Doaba Co-operative Milk Producer's Union Ltd;

G. T. Road, Bye-Pass,
JALANDHAR-8 (Pb.)

No. DMUJ... Admn/OA-2/

1185-88

Dated... 7-108

Joint Director,
Board of Control,
Canteen Services,
Block I-I, Room No. 16,
Army Headquarters,
New Delhi- 110001.

Subject:- Counting of past service for pension purpose.

Dear Sir,

This is with reference to your letter No. 95033/REP/LKK/BOCCS dated 23.8.95 on the subject cited above.

In this connection, it is to inform you that Sh. Lakshmi Kumar S/o Sh. Banarsi Dass, resident of Mohalla Arya Nagar, Kartarpur, Distt. Jalandhar has worked with this organisation from 6.9.78 to 30.11.85 as Milk Procurement (Asstt) Gr-I. It is further informed that our organisation is Regd. under the Punjab Cooperative Society Act, 1961 and it is an autonomous body. Presently the share of the State Government in this organisation is 61%.

Thanking you,

Yours faithfully,

Managing Director.

CC. to:-
1.

L.K. Khare, Manager (Secretary) Canteen Stores
Deptt. Admn. 119, Maharshi Karve Road,
Bombay-400 020.

OPERATION
FLOOD

Handwritten initials

benefit for his former service.

Contd. on Page 2/-

Handwritten signatures and initials at the bottom of the page.

Kapurthala-Firozpur Kshetriya Gramin Bank
Head Office Jalandhar Road, Kapurthala.

ANNEXURE-7B

4
Ref.No. RRB/STF/21636 / 195.

Date : 18/09/95.

Sh. G.S. Kalra (Lt Col),
Jt Dir Canteen Services,
Secretariat,
Board of Control,
Canteen Services,
Block L-I, Room No.16,
Army Headquarters,
NEW DELHI - 110001.

Dear Sir,

Reg. : Counting of past service for
Pension Purpose.

Please refer to your letter No.
95033/RRP/LKK/BOCCS dated 23/08/95 on the
subject.

In this connection, we are to inform
you that our Bank was established on
30/03/1983 under sub sec.(1) of Section 3
of the RRB Act, 1976. Its 50% Share Capital
is owned by Central Govt., 35% by Punjab
National Bank and 15% by State Govt. It
is deemed to be Co-operative Society for
the purpose of Income Tax Act, 1961, or any
other enactment for the time being in force
relating to any tax on income, profits or
gains.

This is for your kind information.

Thanking you,

Yours faithfully,

SENIOR MANAGER.

प.सं.ब./PNB 212-602/93 (100) JL

कार्यालय प्रति
Office Copy

benefit for his former service.

Contd. on Page 2/-

27

भारत सरकार

GOVERNMENT OF INDIA

केंद्रीय स्टोर्स विभाग

ANNEXURE - 8

CANTEEN STORES DEPARTMENT

Telegrams : CANSIND
Telex : 11 2761 CASD IN
Telephones :
297120-40-80 297142

रक्षा मंत्रालय
MINISTRY OF DEFENCE

"ADELPHI"
119, MAHARSHI KARVE ROAD,
BOMBAY-400 020.

Ref. No. 3/AGM(P)/PN-0092/759

Date : 17 Feb '96

Shri LK Klare,
Manager (Secy)
CSD HO
BOMBAY.

(Through AGM (Secy))

**SUB : COUNTING OF PAST SERVICE
FOR PENSION PURPOSES.**

Reference your application dated 17.02.95 regarding counting of past service for pension purpose.

2. The case was taken up with the office of BOCCS for the desired sanction. With reference to their letter No.95033/Rep/LKK/BOCCS dated 31 Jan '96, they have informed us that the case was examined in detail, both by the Min of Defence as well as DOP&T. However, as the same does not fall within the purview of the existing rules, approval has not been accorded for counting your past service in this department.

(JN KAR)
OIC (Personnel)
For General Manager

cc : AGM (Secy)

कृपया पत्र व्यवहार विभाग के नामसे करें, न किसी व्यक्तिके नामसे
Please address communication to the department and not individuals by name.

benefit for his former service.

Contd. on Page 2/-

159

ANNEXURE-9A

149
SURED FOR Rs. 100/- ONLY.

No. G1/C/ 93374 /XXXVI
Office of the Chief C.D.A. (P)
Allahabad.
Dated: 27-11-92

The General Manager...
..C.S.D. 'ADELPHI'.
..119, Maheshi Kharve Road, Bombay - 400020.

Counting of former civil service towards current engagement
in respect of SHRI M.K. Gupta (Area Manager CSD Depot Navargi)
Your letter No. 3/Admin/8-2/P/1000/1992. Dated: 3-11-92

The case of the above named individual regarding counting of
former civil service has been examined, and the following remarks
offered :-

M.K. Gupta ... Born on 17-1-53 ...
rendered the following spells of former service.
From 25-3-80 to 30-9-87 in Pradesik Co-operative
From - - - - - in Dairy Federation Ltd.
From - - - - - in Lucknow
From - - - - - in

He is reemployed in civil capacity as Manager, A.C.F. ...
f. 13-10-87 under ... vide DO Part II No. ...
the substantive appointment on 13-10-89 vide CSD Bombay No. 3/ACME/1035(GPA) ...
The former service from 25-3-80 to 30-9-87 has been
verified by walk-through and confirmed by Head of office.
is pensionable, for which pension/gratuity amounting to Rs. 9357=00 and
employer's contribution (share) Rs. 10302=00 with 6% interest
is paid to him. It is further seen that above spells of service
did not contain any nonqualifying service except for their period
from M.Y. to and EOL from Nil to

The above named individual has opted/applied for counting
of his former spell of civil service as stated above. His case for
reckoning the same towards pension under the civil rules is covered
under the provision of CCS(P) Rules, 1972 in accordance with which
former civil service counts in full from 25-3-80 to 30-9-87
and from - - - - - towards current engagement
subject to refund of Rs. 9357=00 and employer's share of Rs. 10302=00 with 6%
interest received by him on account of terminal
benefit for his former service.

Contd. on Page 2/-

379
B/S

- 5. The right to count previous service as qualifying service shall not revise until the whole amount of terminal benefit is refunded by Govt. servant.
- 6. Proportionate share of pensionary liability will be claimed from to be settled by C.C.D.A. (P) Allahabad at the time of notification of pensionary awards.
- 7. An entry to be made that the individual was paid not paid terminal benefit amounting to Rs. 9157/- with 6% interest for his previous service; and the same has been recovered, may please be made in his current service book under the signature of PAO concerned.
- 8. This memo in original along with the option certificate/ application in original may please be pasted in current service book of the individual for reference at the time of his retirement.
- 9. Service documents are returned herewith.

PLEASE ACKNOWLEDGE RECEIPT.

ENCL - As above.

R/S/h
 ACCOUNTS OFFICER (PENSIONS)
Ac
x/11

/K.R. SINGH/19-05-1992/

ANNEXURE-9B

Ref. No. 3/ADMN/B-8/PN-0081/11173

Date. 27 Dec' 92

P No. 0081,
Shri. M.K. Gupta
CSD Depot,
Naranggi, Gawhati.

SUB: COUNTING OF FORMER CIVIL SERVICE
TOWARDS CURRENT ENGAGEMENT IN
RESPECT OF SHRI. M.K. GUPTA,
AREA MANAGER, CSD DEPOT, NARANGI.

Further reference to your letter No. 3/ADMN/B-8/PN-0081/10917 dt. 14.12.92. addressed to CDA (P), Allahabad and copy to you.

- 2) We have received the audit report from CDA (P) Allahabad regarding counting of your former service in CSD vide their letter No. GI/C/93374/XXXVI dated 27.11.92. (A zerox copy is enclosed)
- 3) As per the decision taken by CDA (P) Allahabad, your former service from 25.3.80 to 30.9.87 is countable in this Department subject to refund of Rs. 9357/- and employee's contribution (share) of Rs. 10,302.05 with 6% interest ~~in~~ CSD being the terminal benefits received by you.
- 4) In view of the above, you are requested to deposite the amount of Rs. 9,357/- + Rs. 1,904/- = Total Rs. 11,261/- and Rs. 10,302.05 + Rs. 2,130.40 = Total Rs. 12,432.45 with CSD public Fund (Imprest account) and will be credited under the head of Pension/ Graduity account.
- 5) The interest has been worked out on the above said amount from the date of payment released to you upto 31st Dec' 92, so please refund the amount ~~at the earliest~~ to enable us to make necessary entry in your service book.

See or before 31.12.92

Encl - 1

[Signature]
 (M. L. SARKAR)
 ASST. GENERAL MANAGER (ADMN)
 FOR GENERAL MANAGER
22/12

CC : CDA (P) Allahabad ; This has reference to your letter No. GI/C/93374/ XXXVI dt. 27.11.92

CC : P.F. Section ; HO Accounts Branch.

[Handwritten signature]

G.I. Dept. of Pen. & Pen. Welfa-e, O.M. No. 28/24/94-P & PW
(B), dated 30-5-1995

In cases of mobility of personnel between Government and Financial Institutions and vice versa, such employees are not entitled to count their past services for pensionary benefits on their permanent absorption

The undersigned is directed to refer to this Department's O.M. No. 4/8/84-P & PW, dated the 14th May, 1986 and O.M. No. 4/23/87-P & W, dated 10th November, 1987 (Sl. No. 251 and Sl. No. 3 of Swamy's Annual 1986 and 1987, respectively), on the subject mentioned above and to say that inquiries have been made to the effect whether the benefit of counting of service for the purpose of pensionary benefits, as admissible in terms of this Department's O.M. No. 28/10/84-Pension Unit, dated the 29th August, 1984 (Sl. No. 118 of Swamy's news of October, 1984), is to be allowed in the case of mobility of personnel from Government to Nationalized Banks and financial institutions like Life Insurance Corporation of India & General Insurance Corporation, etc., and vice versa.

2. The matter has been considered in the light of instructions issued by this Department in regard to mobility of personnel between Government and non-Government Organizations including Public Sector Undertakings and Autonomous Bodies. The orders contained in this Department's O.M. No. 4/8/84-P & PW, dated the 14th May, 1986 and O.M. No. 4/23/87-P & PW, dated the 10th November, 1987, stated that the Nationalized Banks including the Reserve Bank of India and the State Bank of India and its subsidiaries, the General Insurance Corporation of India and its four subsidiaries are to be treated as Autonomous Bodies for the purpose of grant of pro rata retirement benefits to the permanent Central Government employees who are absorbed by these Bodies on the terms and conditions envisaged in Ministry of Finance, Department of Expenditure, O.M. No. 26/(18)/EV/75, dated the 8th April, 1976, as amended from time to time. It is clarified that such employees are not entitled to count the service rendered in Government for the purpose of pension on absorption in the Nationalized Banks including the Reserve Bank of India and the State Bank of India and its subsidiaries and other financial institutions including Life Insurance Corporation of India, General Insurance Corporation and its subsidiaries as per our O.M. No. 28/10/84-Pension Unit, dated the 29th August, 1984, referred to above.

3. Central Government employees who have rendered service in the Nationalized Banks as well as other financial institutions including Life Insurance Corporation of India/General Insurance Corporation prior to their appointment in the Central Government are also not entitled to count such service for the pensionary benefits under the Central Government. They are, however, free to seek terminal benefits as admissible under the relevant rules from the concerned Nationalized Banks and such other institutions in which they had rendered service before being appointed in the Central Government.

4. Ministry of Defence, etc., are requested to clarify this position to all concerned authorities under their administrative control. The past cases decided otherwise than the procedure clarified above may be reviewed in case the concerned employees are still in service.

A. Khan
P. M.

Central Administrative Tribunal
 Guwahati Bench
 2 APR 1996
[Signature]

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

(An application under Section 19 of the Administrative Tribunals Act, 1985)

Title of the case : O.A. No. 56 of 1996
 Shri Laxmi Kumar Klare ... Applicant
 - Versus -
 Union of India and others ... Respondents

I N D E X

<u>Sl.No</u>	<u>Particulars of the documents</u>	<u>Page Nos.</u>
1.	Application ...	1 to 13
2.	Verification ...	13
3.	Annexure- 1 : Letter dated 5.7.93	14 - 16
4.	Annexure- 2 : Certificate dt. 2.2.95	17
5.	Annexure- 3 : Certificate dt.	18
6.	Annexure 4A : Certificate dt. 4.2.95	19
7.	Annexure- 4B : Certificate dt. 32.1.95	20
8.	Annexure- 5 : Letter dtd. 17.2.95	21 - 22
9.	Annexure- 6A : Letter dtd. 28.3.95	23
10.	Annexure- 6B : Letter dtd. 28.3.95	24
11.	Annexure- 7A : Letter dtd. 7.10.95	25
12.	Annexure- 7B : Letter dtd. 18.1.95	26
13.	Annexure- 8 : Letter dtd. 7.2.96	27
14.	Annexure- 9A : Letter dtd. 27.11.92	28 - 29
15.	Annexure- 9B : Letter dtd. 22.12.92	30
16.	<i>ATS</i>	31 - 41
17.	<i>Remainder</i>	46 - 61

For use in Tribunal's office :

Date of filing :
Registration No. :
REGISTRAR

Recd Copy
Copy sent to
AD (L) C
CAT
Guwahati

2/4/96

Blare

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No. 56 of 1996

Filed by
S. K. Sharma
2/10/96

BETWEEN

Shri Laxmi Kumar Klare,
Area Manager,
Canteen Stores Department,
Narengi Depot,
Satgaon, Guwahati.

... APPLICANT

AND

1. The Union of India,
represented by the Secretary to
the Government of India,
Ministry of Defence,
New Delhi
2. The Secretary
Department of Personnel & Training,
(Pension & Pensionary Welfare Department)
New Delhi.
3. The Deputy Director General,
Canteen Services, Block L-1,
Church Road, P.O. Army Headquarter,
New Delhi.
4. The Union Public Service Commission,
Dholpur House, Shahjahan Road,
New Delhi,
Represented by its Chairman

5. *The General Manager, Canteen Stores Dept.*
Ministry of Defence, Delhi
119 GK Road, Bombay - 400020
RESPONDENTS
DETAILS OF APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH
THE APPLICATION IS MADE:

The instant application is directed against
the letter No. 95033/Rep/LKK/BOCCS dated 31.1.96
purportedly issued by the authority rejecting the
claim of the application for counting of his past
service towards pensionary benefit. The said decision

Contd...P/2.

Klare

dated 31.1.96 has been communicated to the applicant vide letter No. 3/AGM(P)/PN-0092/759 dated 7.2.96.

2. JURISDICTION :

The applicant declares that the subject matter of the application for which ~~they~~ he wants redressal is well within the jurisdiction of this Hon'ble Tribunal.

3. LIMITATION :

The applicant further declares that the application is within the limitation period prescribed under Section 21 of the Administrative Tribunals Act, 1985.

4. FACTS OF THE CASE :

4.1 That the applicant is a citizen of India and presently he has been working as Area Manager, Canteen Stores Department, Narengi Depot, Satgaon, Guwahati. Thus he is entitled to all the rights, protections and privileges guaranteed by the Constitution of India and the laws framed thereunder.

4.2 That the applicant is aggrieved by the decision of the respondents rejecting his claim for counting of his past services towards pensionary benefit and making a grievance against the same, the instant application has been preferred for appropriate relief.

4.3 That the applicant was appointed to the post of Manager, Grade-I (Group 'A' Gazetted) in the Canteen Stores Department under the Ministry of Defence pursuant

Contd....P/3.

Blare

to the selection and recommendation of the U.P.S.C. vide Memo No.95012/Q/BOCCS (Vol-X)/222/S/D(MOV) dated 5.7.93, the applicant joined the service on 10.6.94 pursuant to the said appointment letter dated 5.7.93.

A copy of the said letter dated 5.7.93 is annexed herewith as ANNEXURE-1.

4.4 That prior to the joining in the service of the C.S.D., the applicant had worked under three different organisations from 1978 till the joining at the C.S.D. His first spell of service was for the period from 6.9.78 to 30.11.85 as Milk Procurement Assistant, Grade-I in Daoba Co-Operative Milk Producers Union Limited, Jullandhar City, an autonomous body registered under the Punjab Co-Operative Societies Act, 1961 having share capita of State Government. His second spell of service was for the period 4.12.85 to 6.4.87 under the Kaputthala Firozpur Kshatriya Gramin Bank sponsored by Punjab National Bank having 50% share capital of Central Government, 35% of Punjab National Bank and 15% of State Government. He was an officer of the said Bank. His third spell of service was as an officer JM-Grade-I in the Bank of Baroda for the period 5.10.87 to 4.6.94. It was during this spell, he was selected by the U.P.S.C. for being appointed as Manager, Grade-I Canteen Stores Depot pursuant to which he has joined the services as stated above.

Copy of the certificate dated 2.2.95 in respect of his services under the Daoba Co-Op. Milk Producers Union Ltd. is annexed as ANNEXURE-2.

Contd...P/4.

R. D. Singh

Copies of the certificates in respect of service under the Kapurthala Firozpur Kshatriya Gramin Bank is annexed as ANNEXURE-3.

Copies of the certificates dated 4.2.95 and 31.1.95 in respect of his services under Bank of Baroda are annexed as ANNEXURES-4A and 4B.

4.5 That the applicant after joining the services of the C.S.D. had applied vide his letter dated 19.2.95 for counting of his past services towards pensionary benefits. In the said representation, he highlighted his various spells of service in different organisations and also highlighted as to how the services of one Shri M.K. Gupta, A.G.M. who is also working under the C.S.D. has been counted for pensionary purpose. It was pointed out that said Shri Gupta had served in similar organisation like that of the applicant. It was also clarified that the applicant was ready to pay the employer's share of Provident Fund with interest and the gratuity received from his previous employers.

A copy of the letter dated 17.2.95 is annexed herewith as ANNEXURE-5.

4.6 That query was made with the Daoba Co-Operative Milk Producers Union Ltd. in respect of services rendered by the C.S.D. authorities pursuant to his representation for counting of his past services towards pensionary benefits. Such a query was made vide letter

Contd....P/5

Blare

No. 95033/REP/LKK/BOCCS dated 28.3.95 pursuant to such an enquiry. Similar query was made to Kapurthala Firozpur Kshatriya Gramin Gaonlia Bank vide letter of even No. ~~23~~ dated 23.8.95. The said queries were replied to by both the organisations vide their letter dated 7.10.95 and 18.9.95 respectively.

Copies of the said letters dated 28.3.95 and replies thereto dated 7.10.95 and 18.1.95 are annexed as ANNEXURES-6A, 6B, 7A and 7B respectively.

4.7 That the applicant after the aforesaid development was cherishing in his mind that his past ~~xxxx~~ period of service rendered under different organisations would be counted towards pensionary benefits. But to the utter surprise he was communicated vide letter No. 3/AGM(P)/PM-0092/759 dated 7.2.96 in reference to 31.1.96 intimating that ~~the~~ his case was examined and on such examination approval has not been ~~xxx~~ accorded for counting of his past service.

A copy of the said letter dated 7.2.96 is annexed herewith as ANNEXURE-8.

4.8 That the applicant states that when he appeared in the interview conducted by the U.P.S.C. for the post of Manager, Grade-I it was specifically urged by him before the Members of the U.P.S.C. for protection of his past services to which the Members also agreed to. Accordingly in the appointment letter also in the first

Contd...P/6.

Blue

clause it was specifically mentioned that his appointment in the C.S.D. under the Ministry of Defence

"according to rules". It will be pertinent to mention here that so far the pay of the applicant is concerned that has been protected in his new service under the C.S.D. taking into account the past service rendered by him, Thus there is no earthly reason as to why the same treatment should not be given to him for the purpose of pensionary benefits as well. The applicant has pointed out in the representation that he is ready to deposit the employers' share of contribution of Provident Fund with interest. There is no impediment against counting of such past services for the purpose of pensionary benefit.

✓ 4.9 That the applicant states that as stated above one Shri M.K. Gupta before his joining the C.S.D. was an employee of the Pradeshik Co-Operative ~~Dka~~ Dairy Federation Ltd. registered under the U.P. Co-Operative Societies Act, 1965. On his representation for counting of his past services towards pensionary benefit, same has been acceded to and ~~xxx~~ is benefited towards pensionary benefits taking into account his past services rendered under the said Dairy Federation Ltd.

In the above context, copies of the letters dated 27.11.92 and 22.12.92 are annexed herewith as ANNEXURES-9A and 9B.

4.9 That under the aforesaid circumstances, there

Contd....P/7.

Blare

is no earthly reason as to why the past services rendered by the applicant in various organisations should not be counted towards his pensionary benefit more so when his pay has already been directed and his case is covered under the relevant rules and circulars holding the field which the applicant will be producing at the time of hearing of the instant application.

4.10 That the applicant will be great loser if his past services is not counted towards pensionary benefit inasmuch as by the time he retires on superannuation from the service of the C.S.D. he will be completing about 17 years 10 months of service and thereby would be deprived of full pensionary benefit requirement of which is 33 years of service. If the services of the applicant rendered by him in the earlier organisations are counted, it will be more than 30 years of service and thereby he will be benefited towards pensionary benefits.

4.11 That the applicant states that in view of the liberalisation of pensionary scheme and there being no impediment against counting of his past services towards pensionary benefit, ~~xxx~~ more so when others have been given such benefit, there is no earthly reason as to why the applicant should not be given the said benefit by way of counting his past services towards pensionary benefit.

4.12 That the applicant states that in view of the facts and circumstances, the impugned decision purportedly taken by the authorities, under their letter dated 31.1.96,

Contd....P/8.

Blare

conveyed vide Annexure-8 letter dated 7.2.96 is not maintainable and liable to be set aside and quashed. It will be pertinent to mention here that the purported decision of the authorities reference of which has been made in the Annexure-8 letter dated 7.2.96 has not been communicated to the applicant and he is not aware as to what weight towards issuance of such a letter dated 31.1.96 was given. The respondents may be directed to produce a copy of the said letter dated 31.1.96.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

5.1 For that prima facie the order purportedly contained in Annexure-8 letter dated 7.2.96 is not sustainable inasmuch as there is no impediment against counting of past services towards pensionary benefit extendable to the applicant.

5.2 For that the relevant circulars/rules holding the field clearly lay down that under the circumstances as in the case of the applicant the past services of the incumbent should be counted towards pensionary benefit and the respondents having not complied with the same towards issuance of the impugned order, same is not sustainable and liable to be set aside and quashed.

5.3 For that others having been extended with the benefit of counting of past services as has been done in case of Shri M.K. Gupta, there is no earthly reason as to why the applicant should not be extended with similar treatment. Otherwise there will be violation of the Articles 14 and 16 of the Constitution of India.

5.4 For that there has been complete violation of the principles of natural justice inasmuch as before taking the decision by the authority not to count the past services of the applicant towards pensionary benefits, he was not given any opportunity of hearing. He was also not asked to clarify the position and thus he was deprived of a valuable right of being heard.

5.5 For that the organisations under which the applicant rendered his previous services practically being instrumentality of the State and the services rendered in such organisations being accountable towards pensionary benefit, the respondents cannot deny the applicant such benefits. Accordingly, the impugned order is liable to be set aside and quashed.

5.6 For that he having applied through proper channel and he having made it known during the course of interview that he would like to have the benefit of past services to which the Members present in the Interview Board had also agreed and the applicant having acted upon on such assurances and his appointment letter having clearly laid down that his appointment is "according to rules", the respondent cannot turn down the same and take decision contrary to the rules and circulars holding the field and thereby deprive the applicant from his full pensionary benefit.

5.7 For that pension and pensionary benefits ~~have~~ being no longer a bounty, but the incumbent is entitled

to the same as a matter of right for the services rendered, and there being liberalisation of the pensionary scheme, the respondents cannot interpret the circulars and the rules strictly in favour of the respondents to deprive the applicant from pensionary benefits and accordingly appropriate direction is called for in the instant case for counting the past services of the applicant towards his pensionary benefit.

5.8 For that the respondents having protected the pay of the applicant taking into his past services there is no earthly reason as to why similar treatment should not be given to him towards his pensionary benefit.

5.9 For that when the applicant is agreeable towards fulfilment of all the conditions precedent towards counting of his past services for the purpose of pensionary benefit, the respondents cannot shut their eyes to such a position and to deny the applicant his full pensionary benefit.

5.10 For that the respondents ought to have considered that if the past services of the applicant are not counted, the applicant by the time retire from service on superannuation will ~~be~~ complete only 17 years 10 months of service and thereby he will be deprived of the full pensionary benefit. The respondents ought to have taken a liberal approach in the matter of pensionary benefits admissible to the applicant by way of counting his past services.

5.11 For that in any view of the matter, the impugned decision purportedly taken by the respondents is not sustainable in the eye of law and liable to be set aside and quashed, with proper relief to the applicant.

The applicant craves leave of this Hon'ble Tribunal to advance more grounds at the time of hearing of the instant O.A. and in support to produce the the relevant circulars holding the field.

6. DETAILS OF REMEDIES EXHAUSTED :

The applicant states that he has no other alternative efficacious remedy except by way of filing this application.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING BEFORE ANY OTHER COURT :

The applicant further declares that he has not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made before any Court of law or other authority and/or other Bench of the Tribunal and/or any such application, writ petition or suit is pending before any of them. ~~The applicant further declares~~
x

8. RELIEFS SOUGHT :

In view of the facts and circumstances stated above, the instant application be admitted, records be called for and on perusal of the same and upon hearing

Contd...P/12.

Blare

the parties on the cause or causes that may be shown be pleased to grant the following reliefs :

- (i) To set aside and quash the letter No.95033/Rep/LKK/BOCCS/11 dated 31.1.96 purportedly issued by the authorities as conveyed under letter No.3/AGM(R)/PM-0092/759 dated 7.2.96 and for that matter be also pleased to set aside and quash the letter dated 7.2.96 (Annexure-8)
- (ii) To direct the respondents to count the past services rendered by the applicant in three different organisations towards his pensionary benefit in the C.S.D.
- (iii) Any other relief or reliefs to which the applicant is entitled under the facts and circumstances of the case.
- (iv) Cost of this application.

9. INTERIM ORDER PRAYED FOR:

The applicant does not pray for any interim relief at this stage but seeks a direction to the respondents that pendency of this O.A. shall not be a bar towards consideration of the case of the applicant for counting of his past services for pensionary benefit under the C.S.D.

10.....

The application is filed through Advocate.

Contd.....P/13.

Blane

12. PARTICULARS OF THE I.P.O. :

- (i) I.P.O. No. : 09 345074
(ii) Date : 27.2.96
(iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES :

As stated in the Index.

V E R I F I C A T I O N

I, Laxmi Kumar Klare, aged about 42 years, son of Shri B.Das, presently working as Area Manager, Canteen Stores Department, Narengi Depot, Guwahati, the applicant, do hereby verify and state that the statements made in paragraphs 1 to 4 and 6 to 12 of ~~this~~ the accompanying application are true to my knowledge and those made in paragraph 5 are true to my information derived from records and I have not suppressed any material facts.

And I sign this verification on this the ²⁷nd day of ~~March~~ ^{April} 1996 at Guwahati.

Klare

REGISTERED A/D

No.95012/Q/BOCCS(VOL-X)/212/S /D(MOV)
Government of India
Ministry of Defence
New Delhi, the 04 NOV 1992

05 July 93

M E M O R A N D U M

Subject:- Recruitment to the post of Manager Grade I/Section Officer
In the Canteen Stores Department, Ministry of Defence

1. On the recommendation of the Union Public Service Commission, the President is pleased to offer to Shri Laxmi Kumar a post of Manager Grade I/ Section Officer (Group 'A' Gazetted) in the Canteen Stores Department under the Ministry of Defence on a pay of Rs. according to rules as recommended by the Union Public Service Commission in the pay scale of Rs. 2200-4000/-.

2. The appointee will also be entitled to draw any other allowances at the rates admissible under and subject to the conditions laid down in rules and orders governing the grant of such allowances in force from time to time.

3. The terms and conditions of appointment are as follows:-

- (i) The post is permanent but the appointee will be on probation for a period of 2 years from the date of appointment, which may be extended at the discretion of the competent authority. Failure to complete the period of probation to the satisfaction of the competent authority will render him liable to be discharged from service or reversion to his parent Department in case he is holding a permanent post.
- (ii) During the first 6 months or so, he will be required to undertake practical "on job" training.
- (iii) If during the probation period he resigns from service, he will be required to refund to the Govt all the moneys paid to him on account of pay and allowances etc for the period of "on job" training.
- (iv) The appointment during the probation period, may be terminated at any time on one month's notice given by the either side viz the appointee or the appointing authority, without assigning any reasons or by reverting the individual to his parent department, in case he is holding a lien. The appointing authority, however, reserves the right of terminating the services of the appointee forthwith or before the expiry of the stipulated period of notice by making payment to him of a sum equivalent to the pay and allowances for the period of notice or the unexpired portion thereof.

contd....2/-

A. J. D.
Advocate

- (v) He will be subject to conditions of service as applicable to civilian Govt servants in the Canteen Stores Department in accordance with the orders issued by the Government of India from time to time. He will also be subject to be found medically fit and Field Service Liability Rules, 1957. He will have also to produce the Integrity Certificate from his Vigilance Department/ Present Employer.
- (vi) He will be required to serve any-where in India.
- (vii) He will not be entitled to any travelling allowances for joining the appointment unless otherwise eligible under the rules.
- (viii) He will be required to take oath/affirm in the following form:-
- "I do swear solemnly affirm that I will be faithful and bear true allegiance to India and to the Constitution of India as by Law established and that I will uphold the sovereignty and integrity of India and that I will carry out duties of my office loyally, honestly and with impartiality (So help me God)".
- (ix) In accordance with the Central Civil Service (Conduct) Rules, 1965, he will not be eligible for appointment under Government of India, if he has more than one wife living. He is, therefore, requested to complete the declaration in the attached form and forward it to this Ministry alongwith his acceptance.
- (x) If any declaration given or information furnished by the candidate proves to be false or if the candidate is found to have wilfully suppressed any material information, he will be liable to removal from service and such other action as the Government may deem necessary.
- (xi) His seniority in the past shall be decided also separately in accordance with the rules applicable to Civilian Government Servants in the Canteen Stores Department in accordance with the orders issued by the Government of India, from time to time.

4. He is required to produce the original documents/certificates in support of his education qualification/ age, experience and so on at the time of joining service to the office of General Manager and Chairman, Board of Administration, Canteen Stores Department, Bombay, for scrutiny/ confirmation.

5. If Sh Laxmi Kumar accepts the offer on the terms and conditions detailed above he should intimate his acceptance of the offer within 10 days of the receipt of this Memorandum to the Min of Def with copy to the Secretary, Board of Control, Canteen Services and the General Manager and Chairman Board of Administration, Canteen Stores Department, 'ADLPHI', 119, Maharshi Karve Road, Bombay-400 020 and should report for duty

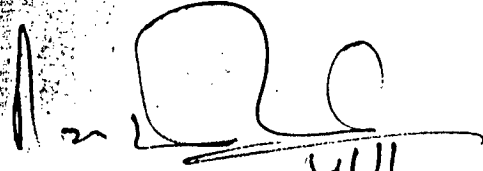
....contd..3/-

Attested.
Advocate.

-3-

to the General Manager and Chairman Board of Administration,
Canteen Stores Department, 'ADELPHI', 119, Maharshi Karve Road,
Bombay on or before ~~11 Dec 92~~ 12th August 93

6. If the acceptance of the offer of appointment is not received from him within the stipulated time mentioned in para 5 above, it will be construed as unwillingness on his part to take up the appointment and this offer will be treated as cancelled.



(PRAKASH CHAND)

Under Secretary to the Govt of India

To

Sh Laxmi Kumar
Bank of Baroda
UPO:Kudaya-242301
Vaya;Miranpurkatra
Jilla:Shahjahanpur
Pin-242301

Copy forwarded to:-

The Secretary
Union Public Service Commission,
Dholpur House, Shahjahan Road,
NEW DELHI-110 011

- For information.
W.r.t. their letter No.
F1/263/91-RV1 dated
05 Mar 92.

The Secretary
Board of Control
Canteen Services
Block L-II, Room No.16
Church Road
NEW DELHI-110 001

The General Manager and Chairman, - It is requested that the
Board of Administration, medical examination of
Canteen Stores Department, Sh Laxmi Kumar may please
'ADELPHI', 119, Maharshi Karve Road be got carried out by INS,
BOMBAY-400 020 Ashwani Bombay.

Controller of Defence Accounts (CSD)
Adelphi, 119, Maharshi Karve Road
BOMBAY-400 020

Ames. ed.

Advocate.



P.S.T. No. 33032618 Dt. 2-2-73
C.S.T. No. 33032618 Dt. 5-2-73

Phones [

Grams : COOPMILK
M.D's Office 74451, Resi. 74452
PBX : 72301, 72346, 75650

The Doaba Co-operative Milk Producer's Union Ltd;

G. T. Road, Bye-Pass,
JALANDHAR-8 (Pb.)

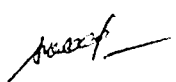
No. DMUI..... Admn/CA-2/ 24425

Dated... 2-2-95

TO WHOM IT MAY CONCERN.

It is certified that Sh. Laxmi Kumar Son of Shri Banarsi Dass resident of Mohalla Arya Nagar, Kartarpur, Distt. Jalandhar has worked with this Milk Union from 6.9.1973 to 30.11.1985 as Milk Procurement Assistant Grade-I.

It is further certified that our organisation is registered under the Punjab Cooperative Society Act, 1961 and it is an autonomous body.


Managing Director.



OPERATION
FLOOD

Attested.


Advocate.



KAPURTHALA - FIROZPUR

KSHETRIYA GRAMIN BANK

Sponsored By : PUNJAB NATIONAL BANK.

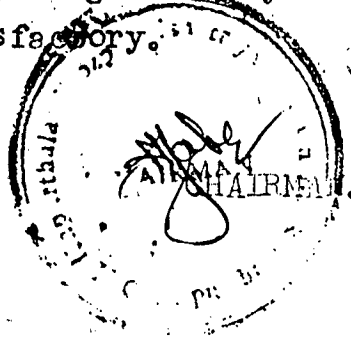
ਕਪੂਰਥਲਾ ਫਿਰੋਜ਼ਪੁਰ ਕਸ਼ੇਤਰੀਆ ਗ੍ਰਾਮੀਨ ਬੈਂਕ

ਪ੍ਰਦਰਤਕ : ਪੰਜਾਬ ਨੈਸ਼ਨਲ ਬੈਂਕ

Ref.No. RRB/ 9283/87 Head Office Jalandhar Road, Kapurthala Dated. 10.08.87

To whom so ever it may concern.

Certified that Sh. Laxmi Kumar S/O
Sh. Banarsi Dass has worked in our bank
as officer from 04.12.85 to 06.04.87.
His work and conduct during his stay
at ours had been satisfactory.



H. O. Jalandhar Road, Kapurthala (A joint undertaking of Centre & State Govt.)
ਹੈਡ ਆਫਿਸ : ਜਲੰਧਰ ਰੋਡ, ਕਪੂਰਥਲਾ (ਕੇਂਦਰ ਅਤੇ ਪੰਜਾਬ ਸਰਕਾਰ ਦਾ ਸਾਂਝਾ ਉਪਕਰਮ)
Telegrams : Gramin Bank Telephone : 2774

Attes.ed.
Advocate

आफ बड़ोदा

(प्रधान कार्यालय : मंडवी, बड़ोदा)

Bank of Baroda

[Head office : Mandvi, BARODA]

क्षेत्रीय कार्यालय (शाहजहाँपुर क्षेत्र)
गोविन्दगंज, शाहजहाँपुर-242 001
फोन : 2169
तार : 'रेगडोरब'



Regional Office
~~गोविन्दगंज~~ (Shahjahanpur Region)
Govindganj, Shahjahanpur-242 001
Phone : 2169
Gram : 'REGDORAB'

सं./No.

UPWS:06:STF:2660

दिनांक/Date

04.02.1992

TO WHOMSOEVER IT MAY CONCERN

This is to certify that Mr. Luxmi Kumar Klare S/o Shri Banarsi Dass has been working as an Officer since 5th October, 1987, in our Bank. He is performing all the duties allotted to officer in the Bank and presently drawing salary Rs.4,788.45 (Basic Rs.2,700/- + Dearness Allowance Rs.2,088.45) and House Rent extra.

We have no objection his appearing in the interview for the post of Manager Grade I/ Section Officers conducted by the Union Public Service Commission, New Delhi.

SENIOR MANAGER (ADMN).

##

Attes.ed.
Advocate.



Bank of Baroda

(Head Office: MANDVI BARODA)

बैंक ऑफ बड़ौदा

(प्रधान कार्यालय : मांडवी, वड़ौदा)

Phones : (C) 76634, 72505 (R) 224143
Telex : 0395 249 JIDR
Gram : JULDORAB

पोस्ट बामन नं 70/P.B. No. 70,
जी. टी. रोड, G.T. Road,
जालंधर/JALANDHAR 144001.

सं/NO, BR: STT: 95: 30.

दिनांक/Date 30-01-95

TO WHOMSOEVER IT MAY CONCERN.

Certified that Shri Laxmi Kumar Klare (EC NO. 58040)
Ex-Officer(JM Gr.1) who was last posted at our Branch
had applied through proper channel to Join Canteen
Store Department (Ministry of Defence).

He had resigned from the Bank Service w.e.f. 04.06.1994

He has the following leave balance at his Credit at
the time of his resignation :-

- | | |
|--------------------------------|--------------------------------|
| 1) Privilege Leave. | 43 days (Forty three days) |
| 2) Casual Leave | 7 days (Seven days.) |
| 3) Medical Leave. | 38 days (Thirty eight days.) |
| 4) Converted Medical
Leave. | 4 days. (Four days.) |

Chin
Ag. Chief Manager.

Place : Jalandhar.
dated : 30.01.1995.

Attes.ed.
Advocate.

L. K. KLARE
MANAGER (P) - 21 -

Govt. of India, Ministry of Defence,
CANTEEN STORES DEPARTMENT,
'Adelphi', 119, Maharshi Karve Road,
Bombay - 400 020.
Phone : Off. : 2037120/40/42/80

Extn : 212

Dt. : 17-02-95

The Dy. Director General,
Canteen Services,
L-I Block, Room No. 16,
Church Road,
New Delhi.

(Through Proper Channel)

Sir,

**SUB : COUNTING OF PAST SERVICE FOR
PENSION PURPOSE ONLY.**

I was appointed as Manager Grade-I in
Canteen Stores Department. On the recommendation
of UPSC. I have reported on 10.6.94 in Head Office
Bombay.

Prior to joining CSD HQ., I have served in
three organisations as under :-

	<u>From</u>	<u>To</u>	<u>Status</u>
1) The Doaba Co. Op. Milk Producers, Union Ltd. Jalandhar City.	06.09.78	30.11.85	Autonomous Body
2) Kapurthala Firepur, Kshatriya Gramin Bank	04.12.85	06.04.87	- do -
3) Bank of Baroda	05.10.87	04.06.94	- do -

..2/-

Attested.

Advocate

L. K. KLARE
MANAGER (P)

- 22 -

Govt. of India, Ministry of Defence,
CANTEEN STORES DEPARTMENT,
'Adelphi', 119, Maharshi Karve Road,
Bombay - 400 020.
Phone : Off. : 2037120/40/42/80

79

: 2 :

My past service of the above organisation may please be counted for pension purpose. I may also bring to your kind notice that the past service of Mr. M.K. Gupta, AGN (Secy) has already been counted for pension purpose. Mr. Gupta has served in the similar organisation as shown in Sr. (t) above. I am ready to pay the employer's share of Provident Fund with interest and gratuity received from my previous employers.

You are requested to please count my past service for pension purpose.

Thanking you,

Yours Faithfully,

(L. K. Klare)

(LAXMI KUNAR KLARE)
MANAGER GRADE-I
PB -0092

- Encl : 1) Experience Certificate
2) Certificate regarding applied Through Proper Channel
3) Certificate regarding autonomous body
4) Other relevant documents.

Attested.

Advocate

23
Tele : 3019563

ANNEXURE 6A
Secretariat
Board of Control
Canteen Services
Block L-I
Room No. 16
Army Headquarters
New Delhi - 110001

No.95033/REP/LKK/BOCCS

23 Aug'95

Director
The Doodha Co.Op
Milk producers
Union Ltd
Jalandhar City

COUNTING OF PAST SERVICE FOR
PENSION PURPOSE

1. Shri L K Klare has been appointed as Manager. Grade I/SO in Canteen Stores Deptt, Min of Def, w e f 10 Jun' 94 on the recommendations of UPSC. He has represented that prior to joining CSD, he was in your department from 6 Sep 78 to 30 Nov' 85. He has also stated that your organisation is an autonomous body and the service rendered by him may be counted for pensionary purposes. "Central Autonomous Body" means a body which is financed wholly or substantially from cess or Central Government Grants "Substantial" means that more than 50 percent of the expenditure of the autonomous body is met through cess or Central Govt grants. It includes a Central Statutory Body - a Central University but does not include a public undertaking. Nationalised Banks, RBI, SBI and its subsidiary banks, LIC, General Insurance Corporation of India and its four subsidiaries are treated as autonomous bodies for this purpose".
2. Please clarify whether your organisation is an autonomous body as per definition given at para 1 above.
3. It is requested that an immediate clarification may please be given to this office to take further necessary action on the representation of Shri

(Signature)
(GS Kalra)
Lt Col
Jt Dir Canteen Services

4/10/95
23/8
25/8

Attested.
Advocate

24
21
ANNEXURE-6B
Tele : 3019563

Secretariat
Board of Control
Canteen Services
Block L-I
Room No. 16
Army Headquarters
New Delhi - 110001

No. 95033/RBP/LKK/BOCCS

23 Aug' 95

Director
Kapurthala
Ferozepur Kahatriya Gramin
Bank
Kapurthala

COUNTING OF PAST SERVICE FOR
PENSION PURPOSE.

1. Shri L K Klare has been appointed as Manager Grade I/80 in Canteen Stores Department, Min of Def, wef 10 Jun'94 on the recommendations of UPSC. He has represented that prior to joining CSD, he was in your department from 04 Dec' 85 to 06 Apr' 87. He has also stated that your organisation is an autonomous body and the service rendered by him may be counted for pensionary purposes. "Central Autonomous Body" means a body which is financed wholly or substantially from cess or Central Government Grants "Substantially" means that more than 50 percent of the expenditure of the autonomous body is met through cess or Central Govt grants. It includes a Central Statutory Body or a Central University but does not include a public undertaking. Nationalised Banks, RBI, SBI and its subsidiary banks, LIC, General Insurance Corporation of India and its subsidiary are treated as autonomous bodies for this purpose".

2. Please clarify whether your organisation is an autonomous body as per definition given at para 1 above.

3. It is requested that an immediate clarification may please be given to this office to take further necessary action on the representation of Shri KL Klare.


(GS Kalra)
Lt Col
Jt Dir Canteen Services

cc(KC)
ad.

23/8

Ames.ed.
Advocate.



P.S.T. No. 33032618 Dt. 2-2-73

C.S.T. No. 33032618 Dt. 5-2-73

Phones [M.D's Office 290451, Resi. 290452
PBX : 290301, 290650, Purchase Sec. 291628

The Doaba Co-operative Milk Producer's Union Ltd;

G. T. Road, Bye-Pass,
JALANDHAR-8 (Pb.)

No. DMU/... Adm/OA-2/

1185 88

Dated 7-10-81

**Joint Director,
Board of Control,
Canteen Services,
Block L-I, Room No. 16,
Army Headquarters,
New Delhi- 110001.**

**Subject:- Counting of past service for pension
purpose.**

Dear Sir,

This is with reference to your letter No. 95033/REP/LKK/BOCCS dated 23.8.95 on the subject cited above.

In this connection, it is to inform you that Sh. Lakshmi Kumar S/o Sh. Banarsi Dass, resident of Mohalla Arya Nagar, Kartarpur, Distt. Jalandhar has worked with this organisation from 6.9.78 to 30.11.85 as Milk Procurement (Asstt) Gr-I. It is further informed that our organisation is Regd. under the Punjab Cooperative Society Act, 1961 and it is an autonomous body. Presently the share of the State Government in this organisation is 61%.

Thanking you,

Yours faithfully,

Managing Director.

CC. to:-

1. L.K. Khare, Manager (Secretary) Canteen Stores Deptt. 'Adm. Sec.' 119, Maharshi Karve Road, Bombay-400 020.

OPERATION
FLOOD

Attested.

Advocate.

Kapurthala-Firozpur Kshetriya Gramin Bank
Head Office Jalandhar Road, Kapurthala.

ANNEXURE-7B

Ref.No. RRB/STF/21636 / 195.

Date : 18/09/95.

Sh. G.S. Kalra (Lt Col),
Jt Dir Canteen Services,
Secretariat,
Board of Control,
Canteen Services,
Block L-I, Room No.16,
Army Headquarters,
NEW DELHI - 110001.

Dear Sir,

Reg. : Counting of past service for
Pension Purpose.

Please refer to your letter No.
95033/REP/IKK/BOCCS dated 23/08/95 on the
subject.

In this connection, we are to inform
you that our Bank was established on
30/03/1983 under sub sec.(1) of Section '3'
of the RRB Act, 1976. Its 50% Share Capital
is owned by Central Govt., 35% by Punjab
National Bank and 15% by State Govt. It
is deemed to be Co-operative Society for
the purpose of Income Tax Act, 1961, or any
other enactment for the time being in force
relating to any tax on income, profits or
gains.

This is for your kind information.

Thanking you,

Yours faithfully,

SENIOR MANAGER.

प.सं.वे./PNB 212-602/93 (100) JL

कार्यालय प्रति
Office Copy

Attested.
Advocate.

CANTEEN STORES DEPARTMENT

84

Telegrams : CANSIND
Telex : 11 2761 CASD IN
Telephones :
297120-40-80 297142

रक्षा मंत्रालय
MINISTRY OF DEFENCE

"ADELPHI"
119, MAHARSHI KARVE ROAD,
BOMBAY-400 020.

Ref. No. 3/AGM(P)/PN-0092/759

Date : 15 Feb '96

Shri LK Klare,
Manager (Secy)
CSD HO
BOMBAY.

(Through AGM (Secy))

SUB : COUNTING OF PAST SERVICE
FOR PENSION PURPOSES.

Reference your application dated 17.02.95 regarding counting of past service for pension purpose.

2. The case was taken up with the office of BOCCS for the desired sanction. With reference to their letter No.95033/Rep/LKK/BOCCS dated 31 Jan '96, they have informed us that the case was examined in detail, both by the Min of Defence as well as DOP&T. However, as the same does not fall within the purview of the existing rules, approval has not been accorded for counting your past service in this department.

(JN KAR)
OIC (Personnel)
For General Manager

cc : AGM (Secy)

कृपया पत्र व्यवहार विभाग के नामसे करें, न किसी व्यक्तिके नामसे
Please address communication to the department and not individuals by name.

Attes. ed.

Advocate.

154

ANNEXURE-9A

INSURED FOR Rs. 100/- ONLY.

No. Gl/C/ 93274 /XXXVI
Office of the Chief C.D.A. (P)
Allahabad.
Dated : 27-11-92

The General Manager ...
... C.S.D. 'ADELPHI'.
... 119, Maheshi Kharve Road, Bombay - 400020

Counting of former civil service towards current engagement
in respect of SHRI M.K. Gupta (Area Manager CSD Depot Navargi)
Your letter No. 3/Admin/8.8/PN/28/9956. Dated : 3-11-92

The case of the above named individual regarding counting of
former civil service has been examined, and the following remarks
offered :-

M.K. Gupta ... Born on 17-1-53 ...
rendered the following spells of former service.
From 25-3-80 to 30-9-87 in Pradesh's Co-operative
From - to - in Dairy Federation Ltd.
From - to - in
From - to - in

He is reemployed in civil capacity as Manager, A.C.F. ...
... vide DO Part II No. ... and was confirmed
... dated ... the substantive appointment on 13-10-89 vide CSD Bombay No. 8/ACMP/1038(CPA)/89
... dated 2-1-92 (Spn-2)

The former service from 25-3-80 to 30-9-87 has been
verified by written statement and confirmed by Head Office.
This pensionable, for which pension/gratuity amounting to Rs. 9357=00 and
employer's contribution (share) Rs. 10302=05 with 6% interest
is paid to him. It is further seen that above spells of service
did not contain any nonqualifying service except for their period
from Nil to and EOL from Nil to

The above named individual has opted/applied for counting
of his former spell of civil service as stated above. His case for
reckoning the same towards pension under the civil rules is covered
under the provision of CCS(P) Rules 1972 in accordance with which
former civil service counts in full from 25-3-80 to 30-9-87
and from - to - towards current engagement
subject to refund of Rs. 9357=00 and employer's share of Rs. 10302=05 with 6%
interest received by him on account of terminal
benefit for his former service.

Advocate's
15/11/92

96

-: 2 :-

- 5. The right to count previous service as qualifying service shall not revise until the whole amount of terminal benefit is refunded by Govt. servant.
- 6. Proportionate share of pensionary liability will be claimed from to by C.C.D.A. (P) Allahabad at the time of notification of pensionary awards.
- 7. An entry to the effect that the individual was paid, not paid terminal benefit amounting to Rs. 9572.00 ~~₹ 10102.00~~ with 6% interest for his previous service, and the same has been recovered, may please be made in his current service book under the signature of PAO concerned.
- 8. This memo in original alongwith the option certificate/ application in original may please be pasted in current service book of the individual for reference at the time of his retirement.
- 9. Service documents are returned herewith.

PLEASE ACKNOWLEDGE RECEIPT.

ENCL - As above.

M&h
ACCOUNTS OFFICER (PENSIONS)

/K.R. SINGH/19-05-1992/

Attes. ed.
[Signature]
Advocate.

ANNEXURE-9/B

Ref. No. 3/ADMN/B-8/PN-0081/11173

Date. 27 Dec '92

P No. 0081,
Shri. M.K. Gupta
CSD Depot,
Naranggi, Gawhati.

SUB: COUNTING OF FORMER CIVIL SERVICE
TOWARDS CURRENT ENGAGEMENT IN
RESPECT OF SHRI. M.K. GUPTA,
AREA MANAGER, CSD DEPOT, NARANGI.

Further reference to your letter No: 3/ADMN/B-8/PN-0081/10917 dt. 14.12.92. addressed to CDA (P), Allahabad and copy to you.

2) We have received the audit report from CDA (P) Allahabad regarding counting of your former Service in CSD vide their letter No. GI/C/93374/XXXVI dated 27.11.92. (A zerox copy is enclosed)

3) As per the decision taken by CDA (P) Allahabad, your former service from 25.3.80 to 30.9.87 is countable in this Department subject to refund of Rs. 9357/- and employer's contribution (share) of Rs. 10,302=05 with 6% interest ~~in~~ CSD being the terminal benefits received by you.

4) In view of the above, you are requested to deposite the amount of Rs. 9,357/- + Rs. 1,904/- = Total Rs. 11,261/- and Rs. 10,302=05 + Rs. 2,130=40 = Total Rs. 12,432=45 with CSD public Fund (Imprest account) and will be credited under the head of Pension/ Graduity account.

5) The intrest has been worked out on the above said amount from the date of payment released to you upto 31st Dec '92, so please refund the amount ~~at the earliest~~ to enable us to make necessary entry in your service book.

2000 or before 31.12.92

Encl - 1

(M. L. SARKAR)

ASST. GENERAL MANAGER (ADMN)
FOR GENERAL MANAGER

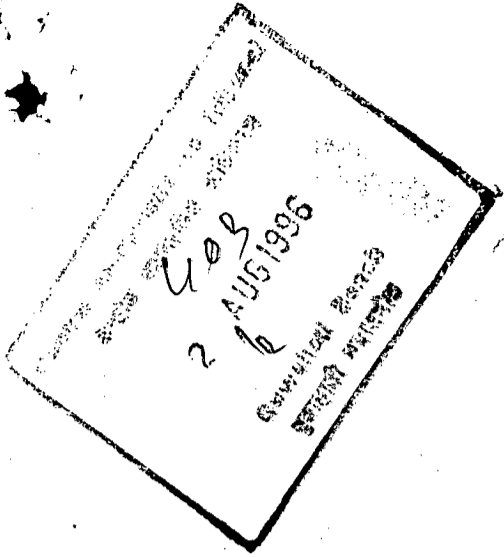
CC : CDA (P) Allahabad

: This has reference to your letter No. GI/C/93374/ XXXVI dt. 27.11.92

CC : P.F. Section

: HO Accounts Branch.

Advocate



31

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

IN THE MATTER OF :

O.A.No. 56/96

Sri.Laxmi Kr. Klare..Applicant

- VS -

Union of India & Ors
.. Respondents

- AND -

IN THE MATTER OF :

Written Statement on behalf
of the official Respondents.

*Prin C/A
12/11/96
S/12/96*

I, Commodore Khalid Hasan, Joint General Manager-I, Canteen Stores Department, 119 M.K.Road, Mumbai do hereby solemnly affirm and declare as follows :

1. That a copy of application alongwith an order passed by this Hon'ble Tribunal have been served upon the official respondents and myself being authorised to defend the case, I do hereby file this written statement on behalf of the official respondents and say categorically that save and except what is admitted in this written statement, rest may be treated as total denial by the Respondents.

Contd..p.2/-

5/8/96
H.P. by
Gola
Sawant
Additional Central Govt
Standing Counsel,
Central Administrative Tribunal

2. That with regard to the contents made in paragraphs 1 to 3 of the application, I beg to state that I have nothing to comment being factual position.

3. That with regard to the contents made in paragraphs 4.1 to 4.4 of the application, I beg to state that I have nothing to comment being factual position.

4. That with regard to the contents made in paragraph 4.5 of the application, I beg to state that the applicant after appointment in CSD had applied for counting of his past service towards pensionary benefits vide his letter dated 17th February'95 and not 19th February'95 as indicated. The earlier case of Shri M.K.Gupta, AGM, in CSD has no relevance to his case. A brief on the counting of past service in respect of Shri M.K.Gupta, is annexed herewith and marked as Annexure R-1. As per the revised orders issued by the Department of Pension & PW vide their OM No.28/24/94-P & PW(B) dated 30th May'95 past cases are required to be reviewed where unintended benefits have been given. A copy of the said O.M. is annexed herewith and marked as Annexure R-2.

5.

5. That with regard to the contents made in paragraph 4.6 of the application, I beg to state that references were made to the Doaba Co Operative Milk Producers Union seeking confirmation of the past service of the applicant as also status of the organisation. However, reference was dated 23rd March'95 and not 28th March'95 as stated by the applicant. Similarly, reference

was

was also made to Kapurthala Ferojpur Kshetriya Gramin Gaolia Bank.

6. That with regard to the contents made in paragraph 4.7, I beg to state that the request made by the applicant for counting of his past services in the Doaba Milk Producers Union Kapurthala, Ferojpur Kshetriya Gramin Bank and the Bank of Baroda was duly considered by the competent authority in consultation with Department of Pension and PW. In view of the clarifications issued vide O.M.No.28/24/94 P & PW(B) dated 30th May '95(Annexure R.2) by the Department of Pension and PW the past service of the applicant prior to his joining the CSD did not qualify for counting towards pensionary benefits within the purview of the instructions issued vide Department of Pension and PW OM No.28/10/84 dtd.29th August '84. The applicant was accordingly informed of this decision through CSD HO where he was working at that time.

7. That with regard to the contents made in paragraph 4.8 of the application, I beg to state that the applicant has reportedly urged before the Selection Board for protection of his past service. However, no mention has been made by the UPSC in their letter recommending the name of the applicant for appointment to the post of Manager Gde-I in the Canteen Stores Department, copy of the UPSC letter No.F.1/263/91-R.VI dated 5.3.92 is annexed herewith and the same is marked as Annexure R.3. With reference to assigning the appropriate pay stage in the grade of Rs.2200-4000, the Commission had indicated that
pay.....

pay of the applicant be fixed as per rules. It is pertinent to mention that the pay of the applicant has been fixed as per the rules duly protecting his last pay drawn in the Bank of Baroda. This however, does not automatically mean counting of his past service as the same is required to be regulated as per the relevant rules ~~can~~ applicable from time to time. As regards the applicant's contention that he was ready to deposit the employers' share of CPF with interest has no relevance in the absence of rules for counting of his past service in central autonomous bodies towards pensionary benefits in the Govt. Service. As stated above the past service of the applicant does not fall under the purview of existing instructions for counting towards pensionary benefits, no cognisance has been taken to the above contention of the applicant. It is admitted that in the case of Shri M.K.Gupta, AGM his past service in the Pradeshik Dairy Federation(UP) has been approved for counting for pensionary benefits during 1992. However, in view of the Department of Pension & PW clarifications vide O.M.No.28/24/94 P & PW(B) dtd.30.5.95 his case will also be reviewed for corrective action, if considered appropriate by the competent authority."

8. That with regard to the contents made in paragraph 4.9 of the application, I beg to state that as explained above the past service of the applicant in 3 organisations cannot be counted towards pensionary benefits in the Central Government in accordance with the existing rules. It may be stated that protection of last pay drawn is not relevant.....

relevant to counting of his past service for the purpose of pension in the Central Govt. Department.

9. That with regard to the contents made in paragraph 4.10 of the application, I beg to state that the contention of the applicant that he will not be entitled for full pension if his past service is not counted towards pensionary benefits may be correct, but no redressal can be given as the same is not permissible as per the existing rules on the subject as stated above.

10. That with regard to the contents made in paragraph 4.11 of the application, I beg to state that in Government Departments all cases are dealt with as per the rules framed by the relevant authorities. In the applicant's case his past service cannot be counted for the purpose of pensionary benefits as the same did not come under the purview of rules as indicated above.

11. That with regard to the contents made in paragraph 4.12 of the application, I beg to state that as indicated above the request of the applicant was duly considered by the competent authority in consultation with Department of Pension & PW. As his past service cannot be counted towards pensionary benefits the decision was communicated to the applicant through Canteen Stores Department HO vide letter No.95033/Rep/LKK/BOCCS dated 31.1.96, copy of which is annexed herewith and same is marked as Annexure R.4. While arriving at the decision, Department of Pension & PW clarifications issued vide O.M. dated 30.5.95 (Annexure R.2) and other relevant orders on the.....

on the subject were taken into consideration.

12. That with regard to the contents made in paragraph 5.1 under caption 'Grounds for Relief' of the application, I beg to state that these are denied. The decision taken by the Department has to be in conformity with the rules and regulations applicable in each case. Clear instructions of Department of Pensions & PW are existing under which the past service of the applicant cannot be counted towards seniority.

13. That with regard to the contents made in paragraph 5.2, I beg to deny as the competent authority has duly considered the request of the applicant as per the existing orders on the subject as indicated above.

14. That with regard to the contents made in paragraph 5.3, I beg to state that the case of another officer viz Shri M.K.Gupta, AGM was processed during 1992 and the same is required to be reviewed as per the clarification given by the Department of Pension & PW vide their O.M. dated 30.5.95(Annexure R.2).

15. That with regard to the contents made in paragraph 5.4, I beg to deny as there is no reason for giving the applicant an opportunity of personal hearing in the face of clear cut rules as indicated above.

16. That with regard to the contents made in paragraph 5.5, I beg to deny the same. The competent authority while taking the decision in the applicant's

case.....

case has duly taken into consideration existing rules on the subject issued by Department of Pension & PW.

17. That with regard to the contents made in paragraph 5.6, I beg to state that these are denied. It is stated that from the recommendation of UPSC it may be seen that the pay of the applicant was to be fixed as per rules in the pay scale of Rs.2200-4000 which has since been complied. There is no mention on protection of past service for the purpose of pensionary benefits as contended by the applicant.

18. That with regard to the contents made in paragraph 5.7, I beg to state that these are denied. It is stated that the past service of the applicant does not fall under the purview of existing Govt. Instructions for counting towards pensionary benefits. It is not a matter of interpretation as contended by the applicant but clear instructions of the Department of Pension & PW as explained above.

19. That with regard to the contents made in paragraphs 5.8 to 5.11 under caption 'Grounds for Relief', I beg to state that in view of the position clarified in the above paragraphs, the contentions of the applicant in these paragraphs are not at all sustainable.

20. That with regard to the contents made in paragraphs 6 to 12 of the application, the Respondents have nothing to comment.

Contd.....

38
a5

- 21. That the present application is not at all maintainable in the present form.
- 22. That the present application is liable to be dismissed solely on the ground that the applicant has not exhausted the remedies available to him.
- 23. That there being no any cause of action whatsoever the present application is devoid of merit and same is liable to be dismissed.
- 24. That the present application is ill-conceived of law and mis-conceived of facts.
- 25. That the application being not supported at all by the rules it is liable to be dismissed.
- 26. That the Respondents crave leave of filing additional Written Statement if this Hon'ble Tribunal so directs.
- 27. That this Written Statement is filed bonafide and in the interest of justice.

VERIFICATION.....

BRIEF ON THE COUNTING OF PAST SERVICE
IN RESPECT OF SHRI MK GUPTA, AGM.

The applicant in his OA No.56/96 as drawn a parallel with the case of PN-0081 Shri MK Gupta, who had been granted permission for counting of past service, which however, has been denied to him. As per letter No.3/ADMN/B-8/PN-0081/11173 dated 22 Dec '92 (copy enclosed), it shall reveal that it was equal to the decision of CDA (P) Allahabad conferring that the former service rendered by PN-0081 Shri MK Gupta from 25.3.66 to 30.9.87 is countable and subject to certain recovery that Shri MK Gupta has been allowed to count his past service. In this context, letter No.G1/C/9337 dated 27.11.92 of CDA (P) Allahabad, copy of which is also enclosed and letter of Pradeshik Co-operative Dairy Federation Ltd., dated 30.9.92 has also the necessary details (copy enclosed).

2. In the same context, reference is also invited to GSD Service Order No.18/86 dated 26 May '86, having reference to para-i, in which the exclusion of Public Sector Undertakings of the State Government is of relevance to the case.

3. Notwithstanding the above, the department has initiated action to forward the case to the Office of DOCS for review.

Encl :

- i) Copy of letter No.3/ADMN/B-8/PN-0081/11173 dt. 22 Dec '92.
- ii) Copy of CDA (P) Allahabad letter No.G1/C/9337 dt. 27.11.92.
- iii) Copy of Pradeshik Co-operative Dairy Federation Ltd., dated 30.9.92.
- iv) Copy of GSD Service Order No.18/86 dated 26 May '86.

7 98

Important Government Orders

173

Dep. of Pen. & Pen. Welfare, O.M. No. 28/24/94-P & PW (B), dated 30-5-1995

cases of mobility of personnel between Government and financial institutions and vice versa, such employees are not allowed to count their past services for pensionary benefits on their permanent absorption.

The undersigned is directed to refer to this Department's O.M. No. P & PW, dated the 14th May, 1986 and O.M. No. 4/21/87-P & PW dated 10th November, 1987 (Sl. No. 251 and Sl. No. 3 of Swamy's 1986 and 1987, respectively), on the subject mentioned above and that inquiries have been made to the effect whether the benefit of service for the purpose of pensionary benefits, as admissible in this Department's O.M. No. 28/10/84-Pension Unit, dated August, 1984 (Sl. No. 118 of Swamy's news of October, 1984), allowed in the case of mobility of personnel from Government Nationalized Banks and financial institutions like Life Insurance Corporation of India & General Insurance Corporation, etc., and vice versa.

The matter has been considered in the light of instructions issued by this Department in regard to mobility of personnel between Government and non-Government Organizations including Public Sector Enterprises and Autonomous Bodies. The orders contained in this Department's O.M. No. 4/8/84-P & PW, dated the 14th May, 1986 and O.M. No. 23/87-P & PW, dated the 10th November, 1987, stated that Nationalized Banks including the Reserve Bank of India and the State Bank of India and its subsidiaries, the General Insurance Corporation of India and its four subsidiaries are to be treated as Autonomous Bodies with a view to grant of pro rata retirement benefits to the permanent Government employees who are absorbed by these Bodies on the terms and conditions envisaged in Ministry of Finance, Department of Finance, O.M. No. 26/(18)/E/1175, dated the 8th April, 1976, as amended from time to time. It is clarified that such employees are not allowed to count the service rendered in Government for the purpose of permanent absorption in the Nationalized Banks including the Reserve Bank of India and the State Bank of India and its subsidiaries and other financial institutions including Life Insurance Corporation of India, General Insurance Corporation and its subsidiaries as per our O.M. No. Pension Unit, dated the 29th August, 1984, referred to above.

00 91 22 083329

C S D BOMBAY

02/01

00

00

00

00

00

00

00

00

00

00

00

00

00

00

00

00

110-5
99

UNISERCOM

CONFIDENTIAL/BY HAND

संघ लोक सेवा आयोग

NO.F.1/263/91-R.VI

धोलपुर हाउस

शाहजहाँ रोड

UNION PUBLIC SERVICE COMMISSION

(SANGH LOK SEVA AYOG)

DHOLPUR HOUSE, SHAHJAHAN ROAD

नई दिल्ली-110011

New Delhi-110011

Dated the 5th February, 19925th March

The Secretary to the Govt. of India,
Ministry of Defence,
Secretariat Board of Control
Canteen Service, Church Road,
New Delhi-110001

(Attention: Shri Mathew S. Abraham, Civilian Staff Officer, DDCS).

Subject:- Recruitment to the 5 posts of Managers Grade I/Section Officer in Canteen Stores Department, Ministry of Defence.

-0-

Sir,

I am directed to refer to your letter NO.BOCCS/00587/DDGCS/40/S/D/MOV dated the 8th March, 1991 and Union Public Service Commission letter of even number dated the 16th January, 1992 on the above subject.

2. Of the 5 posts of Managers Grade I/Section officer in Canteen Stores Department, Ministry of Defence, 2 posts were reserved for Scheduled Castes candidates and remaining 3 posts were unreserved. Personal contacts were also made by the Commission with various eminent authorities in the field for locating suitable candidates for the reserved posts. The personal contacts action did not prove fruitful. There were 213 (including 45 Scheduled Castes) applicants in all). The Commission considered the applications of all the candidates and summoned 23 (including 5 Scheduled Castes) for interview on 10th & 11th February, 1992. Of them 7 seven (1 Scheduled Caste) remained absent. Brig. A.C. Sharma, represented the Ministry at the interviews.

3. The Commission recommend 5 candidates for appointment to the posts of Managers Grade I/Section Officer in the Canteen Stores Department, Ministry of Defence. A list of four along with pay recommended for them may be seen at annexure 'a' to this letter. Position regarding the fifth and seniority of all the recommended candidates will be intimated shortly. The recommended candidates have been informed about their selection.

The Commission also recommended that Shri Laxmi Kumar (Roll No.16 (Scheduled Caste), S.No.4 in annexure may be given in-service training for 12 months.

Contd...P.2....

3. Central Government employees who have rendered service in the Nationalized Banks as well as other financial institutions including Life Insurance Corporation of India/General Insurance Corporation prior to their appointment in the Central Government are also not entitled to credit such service for the pensionary benefits under the Central Government. They are, however, free to seek terminal benefits as admissible under the relevant rules from the concerned Nationalized Banks and such other institutions in which they had rendered service before being appointed in the Central Government.

4. Ministry of Defence, etc., are requested to clarify this position to all concerned authorities under their administrative control. The past cases decided otherwise than the procedure clarified above may be reviewed in case the concerned employees are still in service.

174

G.I. Directorate General of Works, CPWD, Letter No. DGW/CON/84, dated 30-6-1995.

Instructions regarding operation of Composite Contracts

For certain works, it may be expedient/necessary to award Composite Contracts comprising of:

- (i) Civil Works
- (ii) Electrical Works; and
- (iii) Horticulture Works or any combination thereof.

2. In partial modification of this office, O.M. No. CE/CON/607, of September, 1975, it has been decided that, composite tenders may be called at the discretion of the Chief Engineers, if the combined estimated cost of different components put to tender exceeds Rs. 50 lakhs. For works whose combined estimated cost put to tender exceeds Rs. 180 lakhs, prior approval of DGW shall be obtained before calling composite tenders.

3. Following instructions are issued with regard to operation of Composite Contracts:

- (i) Specialized works such as those relating to lifts, sub-station equipment, air-conditioning, etc., should not be included in the composite tenders.
- (ii) Detailed estimates for different components will be technically sanctioned by the competent authorities of the respective discipline.
- (iii) Draft tender documents comprising of Schedules 'A' to 'F' of "General Conditions of Contract for CPWD Works, 1995".

00 91 22 2083329

C S D BOMBAY

02/01 '96 12:44

P01

Telephone 3619563

01 (3)

Secretariat
Board of Control
Canteen Services
L-I Block, Room No. 16
Chruch Road
NEW DELHI- 1100 01

No. 95033/Rep/LKK/BOCCS

31 Jan 96

General Manager
Canteen Stores Deptt
'ADELPHI', 119 M. K. Road
Bombay- 400 020

COUNTING OF PAST SERVICE FOR
PENSION PURPOSES- PN- 0092
SHRI LK KALRE MANAGER GRADE-I/SO

1. Reference your letter No.3/AGM/(P)/PN-0092 dated 21 Feb 95 enclosing therewith a representation of Shri LK Kalre.
2. The case regarding counting of past service for pensionary benefits in respect of Shri Lk Kalre, Manager Grade-I has been examined in detail both by Min of Def as well as DOP&T. It has, therefore, been intimated by the Ministry that the case does not fall within the purview of the existing rules.
3. The officer may please be informed accordingly.

Mathur
(PS Rathore)
CSO
DD CS
For Secretary
Board of Control
Canteen Services

o/c 30/1/96

50/1

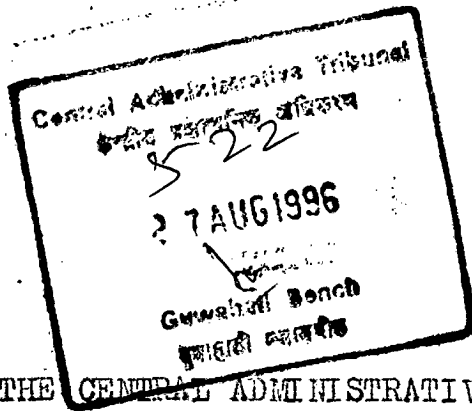
15
45
1.15 (4)
15

Annexure to the Union Public Service Commission letter
No. P. 1/263/91-R.VI dated the 28th February, 1992

List of candidates recommended for appointment to the 4 posts
of Manager Grade I/Section Officer in the Canteen Store Department
Ministry of Defence.

S.No.	Roll No.	Name & Address	Pay recommended in the pay scale of Rs2200-4000/-
1.	116	Sh. C.V. Ramana Rao, Stores officer, NPOL, BMC(PO), Cochin-682021.	'According to the rules or instructions issued by the Govt. of India, as the case may be'.
2.	7979	Sh. Kishore Kumar Srivastava, Asstt. Manager (Pers.), ITDC, The Mall, Varanasi, U.P. Pin: 221002.	- do -
3.	25(SC)	Sh. Laddu Eknath Atmaram, B-2/5, RCF Kurul Colony, Alibag-402209. (Dist. Raigad, M.S. 402209.	- do -
4.	16(SC)	Sh. Laxmi Kumar, C/o Bank of Baroda, UPO: Kudaya-242301, Vaya: Miranpurkatra, Jilla: Shahjahanpur, Pin: 242301.	- do -

(D.V.S. RANGA)
DEPUTY SECRETARY
UNION PUBLIC SERVICE COMMISSION



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

IN THE MATTER OF :

O.A. No. 56 of 1996

Shri Laxmi Kr. Klare ... Applicant.

Vs.

Union of India & Ors. ... Respondents.

AND

IN THE MATTER OF :

Rejoinder to the written statement
filed on behalf of the respondents.

The applicant above-named begs to state as follows :-

1. That the applicant has gone through the copy of the written statements filed by the respondents in the above-noted case and he has understood the contents thereof. Save and except the statements which are specifically admitted here-in-below, other statements made in the written statement are categorically denied. Further, the statements which are not borne on records are also denied and the respondents are put to the strictest proof thereof.

2. That with regard to the statements made in paragraphs 1, 2 and 3 of the written statement, the applicant does not admit anything contrary to the relevant records. In

Ctd...2

this connection, he reiterates and reaffirms the statement made in paragraphs 1 to 3 and 4.1 to 4.4 of the O.A.

3. That with regard to the statements made in paragraph 4 of the written statement, the applicant begs to state that the Annexure R-2 O.M. dtd 30.5.95 has got no application either to the case of Shri MK Gupta or to the case of the applicant. In any case, the O.M. dtd 30.5.95 has got no retrospective application. In this connection, the earlier OMs No. 4/8/84-P&PW dtd 14.5.86 and No. 4/14/85-P&PW dt 3.4.87 may be referred to. According to these 2 OMs, nationalised bank including R.B.I. and S.B.I. and its subsidiary Banks and LIC of India are treated as "autonomous bodies" for the granting of pro-rata retirement benefits. Mr. MK Gupta has not served in any of the above financial institutions for which clarification has been issued on 30.5.95. Therefore, the case of Shri MK Gupta cannot be reviewed as those orders are not applicable on him. Mr. MK Gupta has served in Co-operative Milk Federation and the Govt. has already issued O.M. treating co-operative institutions as autonomous bodies. In this connection, the definition of autonomous bodies as can be found in Brochure on Mobility of Personnel between Central Govt. and Central Autonomous Bodies etc is quoted below :-

"An autonomous body may be a society registered under the Societies Registration Act, 1860, or a statutory

body or a Central University having its own governing council whose Memorandum of Association/bye-laws etc. contain provision for applying with Government directives for carrying out its business in achieving the objective for which the Organisation is established"1

The applicant has also served in similar organisation in which Mr. MK Gupta had served. Mr. Gupta's service has already been counted for the purpose of pension. The contention of the respondents for reviewing the case of Mr. Gupta are wholly untenable in-as-much-as no such clarifications or orders have been issued by the Ministry to review his case. The OM issued on 30.5.95 is in respect of financial institutions. Therefore, there is no earthly reason as to why the applicant's request for counting of his past services rendered in Doabi Co-operative Milk Purchasers Unit should not be counted towards pensionary benefits.

Copies of the aforesaid OMs dtd 14.5.86 and 3.4.87 are annexed as ANNEXURE 'A' & 'B'.

4. That with regard to the statements made in paragraph 6 of the written statement, the applicant while categorically denying the contentions made by the respondents, reiterates and reaffirms the statements made in paragraph 4.7 of the O.A. It is categorically denied that in view of the Annexure R-2 O.M. dt 30.5.95, the past service of the applicant prior to his joining the C.S.D. did not qualify for counting towards pensionary benefits. In this connection, ~~xxxx~~the applicant reiterates and reaffirm the statements made here-in-above.

Ctd....4

5. That with regard to the statements made in paragraph 7 of the written statements, while denying the contentions made therein and reiterating and reaffirming the statements made in the O.A., the applicant begs to state that at the time of interview he had requested the Members of the Selection Board/U.P.S.C. that in case of his Selection, his pay should be protected and his past service should also be counted towards pensionary benefits. As banks were already contemplating to introduce pension scheme which eventually was introduced in the year 1993, the U.P.S.C. members had agreed to the request of the applicant. The respondents cannot deny this position and take away the right of the applicant even by going to the extent of purported review of the case of Mr. MK Gupta.

The Govt. has issued various ~~of~~ circulars regarding counting of past services of the employees ~~governing~~ moving from Central Govt. to autonomous bodies and vice-versa. In this connection, OM No. 28/10/84-Pension Unit dt 29.8.84 issued by the Govt. of India, Ministry of Home Affairs, Deptt. of Personnel and Administrative Reforms may be referred to by which the Central Govt. for the first time issued a detailed procedure for counting of past services of the employees moving from Central Govt. to autonomous bodies and vice-versa. In this O.M., it is clearly mentioned that "an employee of an autonomous body on permanent absorption under the Central Govt. will have the option either to received CPF benefits which have accrued to him from the autonomous body and start in service in Govt. or choose to count services rendered in this body as qualifying services for pension in Govt. by fore-going employers' share of

Contributory Provident Fund, contributions with interest thereon which will be paid to the concerned Govt. Department by the autonomous body to receive CPF benefits. The option once exercised shall be final".

In the above O.M. dtd 29.8.84 it is clearly mentioned that provisions contained in Ministry of Finance O.M. No. 26/18/E.V(B)75 dt 8.4.76 and OM 25(1)E.V/83 dtd 8.9.83 or any orders shall, in so far as it provides for any of the matter contained in the O.M., cease to operate.

A copy of the said O.M. dtd 29.8.84 is annexed herewith and marked as ANNEXURE C.

The O.M. dtd 30.5.95 cannot over-ride and that too retrospectively the provisions of the OMs mentioned above. Liberal constructions in such matters will have to be given towards benefits of the employees. Accordingly, the applicant is entitled to count his past services towards pensionary benefits and the respondents cannot deny the same to him.

6. That with regard to the statements made in paragraph 8 of the written statements, the applicant begs to state that the protection of last pay drawn as has been extended to him is very much relevant towards counting of his past service for the purpose of pension. The Govt. has already issued various orders for counting of past services of the employees moving from Central Govt. to ~~the~~ autonomous bodies and vice versa. In this connection, mention may be made of the OMs dtd 29.8.84, 14.5.86, 3.4.87, 10.11.87^{7.2.86} etc as already reflected above.

Ctd....6

- 6 -

Copies of the aforesaid OMs dtd 29.8.84, 14.5.86, 3.4.87 have been annexed as ANNEXURE A' 'B' AND 'C' respectively. A copy of the OM dtd 10.11.87 is annexed as ANNEXURE 'D', And A copy of the OM dtd 7.2.86 is annexed as Annexure E.

7. That with regard to the statements made in paragraphs 9 and 10 of the written statements, the applicant denies the contentions made therein and reiterates and reaffirms the statements made in paragraphs 4.10 and 4.11 of the O.A. It is denied that in applicant's case his past service cannot be counted for the purpose of pensionary benefits as the same did not come under the purview of rules. In this connection, the applicant states that his past services are required to be counted towards pensionary benefits and the same cannot be taken away on the strength of Annexure R-2 OM dt 30.5.95. This OM dtd 30.5.95 cannot re-open the past cases and will have only perspective application. The applicant pursuant to his selection by the U.P.S.C. joined the present assignment in 1994 and ~~at~~ ^{which} at that time, the earlier OMs/~~xxx~~ fully support the case of the applicant were in existence which do provide for counting of past services. As already pointed out above, the OM dtd 30.5.95 cannot have retrospective application. Had it been known to the applicant that such OM might be issued, he would not have joined ~~the~~ present assignment as in the meantime banks have also introduced pension scheme which was before his resignation from the bank service. The applicant was confident relying upon the earlier OMs that his past service should be counted towards pensionary benefits. By that time, the applicant ~~xxx~~ had 17 years of service to his credit and

Ctd....7

52
109

would not have resign from the service which do provide for pensionary benefits and jointed the Central Govt. deptt. in which now it is contended that his past service would not be counted for the purpose of pension and that he would not get full pension.

Prima facie, the OM issued on 30th May, 1995 is arbitrary and ~~wik~~ wholly untenable under the law. By issuing such OM, the Govt. cannot take away the right of counting past service towards pensionary benefit. In any case, as already contended above, the Annexure R-2 OM dtd 30.5.95 cannot have any retrospective application and thus, based on the earlier OMs, applicant's past service are required to be counted towards pensionary benefits.

8. That with regard to the statements made in paragraph 11 of the written statement while reiterating and reaffirming the statements made above, the applicant begs to state that even if it is held that Annexure R-2 OM dtd 30.5.95 is applicable in the instant case, rules of equity and justice demand that due relaxation should be extended so that the applicant is not deprived in any way towards pensionary benefits.

9. That with regard to the statements made in paragraph 12 ~~and~~ to 20 of the written statements, while denying the contentions made by the respondents, the applicant reiterates and reaffirms the statements made in the O.A.

10. That the applicant denies the contentions made in paragraphs 21 to 27 and the respondents are put to the strictest proof thereof. None of the grounds urged by the respondents in these paragraphs are tenable. Further, the written statements itself is not maintainable having not been verified by the competent authority. As per the copies served on the applicant's counsel, the statements in the written statements have been made by Commodore Khalid Hasan, Jt. General Manager-I, C.S.D., Mumbai, but on the other hand ~~in~~ the verification, verifying the statements has been signed by Shri NK Void, Regional Manager, C.S.D., Guwahati. On this score alone, the entire W.S. is liable to be rejected.

11. That under the facts and circumstances stated above, the instant O.A. deserves to be allowed with cost granting full reliefs to the applicant as has been prayed for.

V E R I F I C A T I O N .

I, Shri Laxmi Kr. Klare, the applicant in O.A. No. 56/96 do hereby solemnly affirm and verify that the statements made in paragraphs 1 & 2 are true to my knowledge, those made in paragraphs 3 to 10 are true to my information derived from the records of the case which I believe to be true and the rests are my humble submission before this Hon'ble Tribunal.

(Klare)

It is, therefore, requested that the Head of Offices/Pension Sanctioning Authorities should take special interest in having the old cases decided expeditiously.

3 Hindi version will follow.

APPENDIX TO CPRO 79/86

Copy of Government of India, Ministry of Personnel, Public Grievances & Pensions (Department of Pension & Pensioners Welfare) OM No 4/8/84-P&PW dated 14 May 86

GRANT OF PRO-RATA RETIREMENT BENEFITS TO THE PERMANENT CENTRAL GOVERNMENT EMPLOYEES WHO ARE ABSORBED IN THE NATIONALISED BANKS—QUESTION REGARDING

The undersigned is directed to say that the pro-rata retirement benefits on absorption in public sector undertakings are regulated in accordance with the orders which were issued by the Deptt. of Public Enterprises and the pro-rata retirement benefits to permanent Central Govt. employees on absorption in Central Autonomous Bodies are regulated by the orders issue by the Deptt. of Pension & Pensioners' Welfare.

2 Doubts were raised in certain quarters whether the Nationalised banks are to be treated as Public Sector Undertakings or autonomous bodies for the purpose of grant of retirement benefits to the Govt. servants permanently absorbed therein. In order to make the position clear and to avoid confusion it is clarified that the Nationalised Banks including Reserve Bank of India and State Bank of India and its subsidiary Banks are to be treated as autonomous bodies for the purpose of grant of pro-rata retirement benefits to the permanent Central Government employees who are absorbed in these bodies on the terms and conditions envisaged in the Ministry of Finance (Deptt. of Expenditure) OM No 26(18)/EV/(B)/75 dated 8-4-1976 as amended from time to time. Ministry of Defence etc are requested to keep this in mind and decide the cases of grant of pro-rata retirement benefits to the permanent Central Government employees absorbed in Nationalised Banks including Reserve Bank of India and State Bank of India and its subsidiary Banks, accordingly.

3 In so far as persons serving in the Indian Audit and Accounts Department are concerned these orders issue after consultation with the Comptroller and Auditor General of India.

Atter
G M

ABSORPTION IN AUTONOMOUS BODIES

3

2

D.P. & P.W., O.M. No. 4/14/85-P. & P.W.,
dated 3-4-1987

L.I.C. of India is to be treated as an autonomous body for
grant of pro rata retirement benefits to C.G. employees
on their absorption

The undersigned is directed to say that the *pro rata* retirement benefits on absorption in the public sector undertakings are regulated in accordance with the orders which were issued by the Department of Public Enterprises, Department of Personnel and Training (Est. Division). The payment of *pro rata* retirement benefits to the permanent Central Government employees who are absorbed in Central autonomous bodies are regulated by the orders issued by the Department of Expenditure and the Ministry of Personnel, P.G. and Pensions.

2. Doubts were raised in certain quarters whether the L.I.C. is to be treated as public sector undertaking or an autonomous body for the purpose of grant of retirement benefit to the Government servants permanently absorbed therein. To avoid any confusion it is clarified in consultation with the Department of Public Enterprises and the Ministry of Finance, Department of Economic Affairs (Insurance Division) that the Life Insurance Corporation of India is to be treated as an autonomous body for the purpose of grant of *pro rata* retirement benefits to the permanent Central Government employees who are absorbed therein on the terms and conditions envisaged in the Ministry of Finance (Department of Expenditure), O.M. No. 26 (18)/E. V (B)/75, dated 8th April, 1976, as amended from time to time. Ministry of Finance, etc., are requested to keep this in view while deciding the cases of grant of *pro rata* retirement benefits to the permanent Central Government employees absorbed in the Life Insurance Corporation.

ANNEXURE C

GOVERNMENT OF INDIA/BHARAT SARKAR
MINISTRY OF HOME AFFAIRS/GRIH MANTRALAYA
Department of Personnel and Administrative Reforms
(Karmik Aur Prashasnik Sudhar Vibhag)

113

New Delhi, the 29th Aug. 1984

OFFICE MEMORANDUM

SUBJECT — Mobility of personnel between Central Government Departments and Autonomous Bodies—
Counting of service for pension—

As per existing orders, service rendered outside Central Government does not count for pension in Central Government except in the case of scientific employees of autonomous bodies financed or controlled of the Government, who on permanent absorption under the Central Government are allowed to count their previous service for pension subject to certain conditions. In respect of personnel other than scientific employees, who are permanent in Central Government, in the event of their subsequent permanent absorption in public sector undertakings or any autonomous body, proportionate retirement benefits for the service rendered in Government till the date of permanent absorption are allowed as per rules in force at the time of absorption. No such benefit is allowed to temporary employees going over to autonomous body or undertaking.

2. A number of Central autonomous/statutory bodies have also introduced pension scheme for their employees on the lines of the pension scheme available to the Central Government employees. It has, therefore, been urged by such autonomous/statutory bodies that the service rendered by their employees under the Central Government or other autonomous bodies before joining the autonomous body may be allowed to be counted in combination with service in the autonomous body, for the purpose of pension, subject to certain conditions. Similar provisions for employees of autonomous body going over to Central Government have also been urged. In other words, the suggestion is that the benefit of pension based on combined service should be introduced.

3. This matter has been considered carefully and the President has now been pleased to decide that the cases of Central Government employees going over to a Central autonomous body or vice-versa and employees of the Central autonomous body moving to another Central autonomous body may be regulated as per the following provisions:

- (a) *In case of Autonomous Bodies where Pension Scheme is in operation*
- (i) Where a Central Government employee borne on pensionable establishment is allowed to be absorbed in an autonomous body, the service rendered by him under the Government shall be allowed to be counted towards pension under the autonomous body irrespective of whether the employee was temporary or permanent in Government. The pensionary benefits will, however, accrue only if the temporary service is followed by confirmation. If he retires as a temporary employee in the autonomous body, he will get terminal benefits as are normally available to temporary employees under the Government. The same procedure will apply in the case of employee of the autonomous bodies who are permanently absorbed under the Central Government.

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 DCRG for the service upto 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.

(ii) A Central Government employee with CPF benefits on permanent absorption in an autonomous body will have the option either to receive CPF benefits which have accrued to him from the Government and start his service afresh in that body or choose to count service rendered in Government as qualifying service for pension in the autonomous body by foregoing Govt's share of CPF contributions with interest, which will be paid to the concerned autonomous body by the concerned Government Department. The option shall be exercised within one year from the date of absorption. If no option is exercised within stipulated period, employee shall be deemed to have opted to receive CPF benefits. The option once exercised shall be final.

(b) Autonomous body where the Pension Scheme is not in operation

(i) A permanent Central Government employee borne on pensionable establishment, on absorption under such autonomous body will be eligible for pro-rata retirement benefits in accordance with the provisions of the Ministry of Finance O.M. No. 26(18)EV(B)/75 dated the 8th April 1976, as amended from time to time. In case of quasi-permanent or temporary employees, the terminal gratuity as may be admissible under the rules would be actually payable to the individual on the date when pro-rata retirement benefits to permanent employees become payable. However, in the case of absorption of a Government employee with CPF benefits, in such an autonomous organisation, the amount of his subscriptions and the Governments' contribution, if any, together with interest thereon shall be transferred to his new Provident Fund account with the consent of that body.

(ii) An employee of an autonomous body on permanent absorption under the Central Government will have the option either to receive CPF benefits which have accrued to him from the autonomous body and start his service afresh in Government or choose to count service rendered in that body as qualifying service for pension in Government by foregoing employer's share of Contributory Provident Fund contributions with interest thereon, which will be paid to the concerned Government Department by the autonomous body. The option shall be exercised within one year from the date of absorption. If no option is exercised within stipulated period, employee shall be deemed to have opted to receive CPF benefits. The option once exercised shall be final.

(c) Absorption of employees of one Central Autonomous body in another Central Autonomous body. The above procedure will be followed *mutatis mutandis* in respect of employees going from one autonomous body to another.

4. "Central autonomous body" means body which is financed wholly or substantially from cess or Central Government grants. "Substantially" means that more than 50 per cent of the expenditure of the autonomous body is met through cess or Central Government grants. "Autonomous body" includes a Central statutory body or a Central University but does not include a public undertaking.

Only such service which qualifies for pension under the relevant rules of Government/Autonomous body shall be taken into account for this purpose.

5(1) The employees of a Central autonomous body or Central Government, as the case may be, who have already been sanctioned or have received pro-rata retirement benefits or other terminal benefits for their past service will have the option either:—

- (a) to retain such benefits and in that event their past service will not qualify for pension under the autonomous body or the Central Government, as the case may be; or
- (b) to have the past service counted as qualifying service for pension under the new organisation in which case the pro-rata retirement or other terminal benefits, if already received by them, will have to be deposited along with interest thereon from the date of receipt of those benefits till the date of deposit with the autonomous body or the Central Government, as the case may be. The right to count previous service as qualifying service shall not revive until the whole amount has been refunded. In other cases, where pro-rata retirement benefits have already been sanctioned but have not yet become payable, the concerned authorities shall cancel the

Attw

sanction as soon as the individual concerned opts for counting of this previous service for pension and inform the individual in writing about accepting his option and cancellation of the sanction. The option shall be exercised within a period of one year from the date of issue of those orders. If no option is exercised by such employees within the prescribed time limit, they will be deemed to have opted for retention of the benefit already received by them. The option once exercised shall be final.

(2) Where no terminal benefits for the previous service have been received, the previous service in such cases will be counted as qualifying service for pension only if the previous employer accepts pension liability for the service in accordance with the principles laid down in this Office Memorandum. In no case pension contribution/liability shall be accepted from the employee concerned.

6. These orders will be applicable only where the transfer of the employee from one organisation to another was/is with the consent of the organisation under which he was serving earlier, including cases where the individual had secured employment directly on his own volition provided he had applied through proper channel/with proper permission of the administrative authority concerned.

7. These orders will take effect from the date of issue and the revised policy as enunciated above will be applicable to those employees who retire from Government/autonomous body service on or after the date of issue of these orders.

The provisions contained in the Ministry of Finance Office Memorandum No. 26(18)EV(B)/75 dated the 8th April 1976 and Office Memorandum No. 25(1)EV/83, dated the 8th September 1983 or any other orders shall, in so far as it provides for any of the matters contained in this Office Memorandum, cease to operate.

8. The Ministry of Education and Culture etc. are requested to advise the autonomous/statutory bodies under their administrative control, with specific directions to the Financial Advisers concerned, to ensure to make necessary provisions in their Rules and Regulations/Articles of Association in accordance with the provisions contained in this Office Memorandum. In cases where any practice otherwise than enumerated above is presently being followed the same may be revised in accordance with the provisions of this Office Memorandum so that uniformity is maintained in such matters in all the organisations.

9. In so far as persons serving in the Indian Audit and Accounts Department are concerned these orders issue after consultation with the Comptroller and Auditor General of India.

Sd/-
S. R. AHIR, Deputy Secretary to the Govt. of India

Handwritten signature/initials

159

15 -

ANNEXURE - E 112

Government of India
Ministry of Defence
Canteen Stores Department
'Adelphi'
119, Maharshi Karve Road, Bombay-20.

Number
38/86

SERVICE ORDER

SERVICE REGULATIONS - CANTEEN STORES
DEPARTMENT EMPLOYEES.

38/86

COUNTING OF SERVICE FOR PURPOSES OF
PENSION OF EMPLOYEES OF CENTRAL GOVERNMENT
AND CENTRAL AUTONOMOUS BODIES SEEKING
ABSORPTION IN AUTONOMOUS BODIES UNDER
THE STATE GOVERNMENTS AND VICE VERSA

Reference Service Order No. 6/85 dated 14.2.85.

2. Govt. of India, Ministry of Personnel, Public Grievances and Pension (Department of Pension and Pensioners Welfare) letter No. 28(10)/84-F&PW-Vol. II dated 7.2.86 received vide AG's Branch, AHQ, New Delhi letter No. A/96293/O-24(Civ) (P) dated 5.5.86 is reproduced below as Annexure 'A' to this order.

(G. Ramachandran)
for General Manager
Canteen Stores Department

Place : Bombay
Date : 26 May 86
(5/2-8/2707)
Distribution :-

- 1. The Secy BOCCS, N. Delhi (10 copies)
- 2. JCM (2 ")
- 3. All DGMS (2 ")
- 4. All RMs (2 ")
- 5. All AGMs (2 ")
- 6. All Depot Managers (2 ")
- 7. All Managers in HO (4 ")
- 8. HO MS Branch (2 ")
- 9. HO Accounts Branch (5 ")
- 10. CDA (CSD) (10 ")
- 11. IAO (2 ")
- 12. CSD Employees Union (2 ")
- 13. CSD Workers Association (2 ")

Annexure 'A' to Service Order No. 38/86 dated 26 May 86.

Govt of India, Ministry of Personnel, Public Grievances & Pension (Department of Pension & Pensioners Welfare) letter No. 28(10)/84-F&PW-Vol II dated 7 Feb 86.

The Chief Secretaries of all the State Government.

Sub: Counting of service for purposes of pension of employees of Central Government and Central Autonomous Bodies seeking absorption in Autonomous Bodies under the State Government and vice-versa.

Sir,

I am directed to say that in August, 1984, Central

Handwritten signatures and initials

Contd...

Government had issued orders that where a Central Government employee borne on pensionable establishment is allowed to be absorbed in a Central Autonomous Body having a pension scheme of its own, the service rendered by him under the Government shall be allowed to be counted towards pension under the Autonomous Body irrespective of whether the employee was temporary or permanent in Government, subject to certain conditions. The same procedure will apply in the case of employees of the Autonomous Bodies who are permanently absorbed under the Central Government. Certain employees of the State Government and State Autonomous Bodies who joined the Central Autonomous Bodies/Statutory Bodies, have also represented that their service under the State Government/State Autonomous Body may be allowed to be counted towards pension under Central Autonomous Body where they are presently working. Similarly, certain Central Government Servants and employees of the Central Autonomous Bodies/Statutory Bodies (excluding public undertakings/ of the State Govts and may be desirous of getting the benefit of counting of service under Central Government/Autonomous Bodies towards pension in the organisations where they are presently working.

2. In the circumstances explained above, it was felt that reciprocal arrangements may be entered into with the various State Government to the effect that where employees of the State Governments/State Autonomous Bodies/State Statutory Bodies, have been absorbed in the Central Autonomous Bodies, they may be allowed the same benefits as have been extended to the Central Government Servants and vice-versa.

3. The question of extension of various benefits like counting of service etc., in the cases of (i) employees of the Central Government absorbed in State Autonomous Bodies, and (ii) employees of Central Autonomous Bodies absorbed in State Governments and State Autonomous Bodies, and vice-versa, has been considered in consultation with the State Governments. After careful consideration, the President has now been pleased to decide that these cases may be decided in accordance with the principles as laid down in the Department of Personnel and Administrative Reforms ~~as decided in accordance with the principles as laid down in the Department of Personnel and Administrative Reforms~~ OM No. 28/10/84/Pension undated 29.8.1984. The cases of Central Government servants appointed in State Governments and vice-versa will continue to be decided as hitherto.

4. Similar orders regarding counting of service of the Central Government employees in the event of their absorption in the State Autonomous Bodies and employees of the Central autonomous bodies in the State Governments, and State Autonomous Bodies as well as orders regarding acceptance of pension liability etc., in respect of State Government and State Autonomous Bodies employees absorbed in Central Autonomous Bodies and employees of State Autonomous Bodies absorbed in Central Government will be issued by the respective State Governments.

5. These orders shall apply to employees of the State Government and State Autonomous Bodies moving to Central Government, Central Government Autonomous

*File
27*

respect of the State Government listed below:-

- (i) Karnataka
- (ii) Madhya Pradesh
- (iii) Punjab
- (iv) Rajasthan
- (v) Sikkim
- (vi) Tripura
- (vii) West Bengal
- (viii) Uttar Pradesh
- (ix) Bihar
- (x) Gujarat
- (xi) Assam
- (xii) Meghalaya
- (xiii) Himachal Pradesh

These orders shall be extended to the employees of other State Governments as and when they agree to similar reciprocal arrangements.

These orders will apply to the employees of the Central Government moving to State Autonomous Bodies and employees of Central Autonomous Bodies to the State Governments and their Autonomous Bodies mentioned in para 5 above and vice-versa who are in service on the date of issue of these orders, irrespective of their absorption.

So far as persons serving in the Indian Audit and Accounts Department are concerned, these orders issued after consultation with the Comptroller and Auditor General of India.

Yours faithfully,

Sd/-xxx
(HAZARA SINGH)
Deputy Secretary to the Government of India.

ma/-

Handwritten signature

Contd...