

**Central Administrative Tribunal  
Principal Bench  
New Delhi**

TA No.0236/2009  
(C.W.P. No.891/2001)  
MA No.2630/2015

Order Reserved on: 09.09.2016

Pronounced on:22.09.2016.

**Hon'ble Mr. V. Ajay Kumar, Member (J)  
Hon'ble Mr. K.N. Shrivastava, Member (A)**

B.B. Trivedi (Dead)  
Through Legal Heir Rama Trivedi,  
W/o late Sh. B.B. Trivedi,  
R/o 105, Aruna Apartment,  
I.P. Extension,  
Delhi-92.

- Applicant

(By Advocate Shri Anil Singhal)

**-Versus-**

1. Secretary,  
Ministry of Agriculture,  
Dept. of Agriculture,  
Krishi Bhawan,  
New Delhi.
2. National Council of Cooperative Training,  
Through Chairman,  
3-Siri Institutional Area,  
Jawahar Lal Nehru Coop. Complex,  
3<sup>rd</sup> Floor, Khel Gaon Marg,  
Hauz Khas, Post Bag No.2,  
New Delhi-110016.
3. Registrar of Cooperative Societies, UP,  
14 Vidhan Sabha Marg,  
Lucknow, U.P.

-Respondents

(By Advocate Shri J.K. Singh for Respondent No.2, none for  
Respondents 1&3))

## **O R D E R**

### **Mr. K.N. Shrivastava, Member (A)**

This is a Transferred Application (TA). The deceased applicant Shri B.B. Trivedi had originally filed Writ Petition (Civil) No.891/2001 before the Hon'ble High Court of Delhi. The said Writ Petition was transferred to this Tribunal in terms of Government Notification No.SO (E) dated 01.12.2008, whereby the National Council for Cooperative Training (NCCT) was brought under the jurisdiction of this Tribunal.

2. Smt. Rama Trivedi, wife of the deceased applicant Shri B.B. Trivedi, being his legal heir, was brought on record on 17.12.2015.

3. The brief facts of this case are as under:

3.1 The deceased applicant joined as Inspector Grade-II in Registrar Cooperative Societies (RCS), UP (respondent no.3) on 16.04.1958 after having been selected by the UP Public Service Commission. He worked in the said organization till 30.09.1964. The NCCT (respondent no.2) advertised the post of a Lecturer and the applicant applied for the same and was selected on 03.10.1964 and subsequently joined the post in NCCT. The NCCT is an autonomous body working under the Ministry of Agriculture (respondent no.1). The grievance of the

applicant is that for fixation of his pension, his past service of seven years in RCS/UP has not been counted and consequently he had been facing financial loss.

3.2 The applicant sent several representations to respondent no.1 and 2 between the years 1990 to 1998 but no action was taken. Finally, on 06.04.1999, he was informed by respondent no.2 that no employee of NCCT has been given the benefits of his earlier service. On 31.05.2000, he got an intimation from respondent no.1 that the Government of UP had refused to share the proportionate financial burden of his pension and even the Administrative and Finance Sub-Committee of NCCT had not agreed to consider his request due to the financial difficulties. The said letter reads as under:

“Subject:-Counting of past service with U.P. State Govt. for pensionary benefits.

xxx   xxx   xxx

2. The matter has been examined in consultation with the NCCT in this Ministry. It has been reported by the NCCT that your case was taken up with the Govt. of U.P. for counting of past services rendered to them to bear proportionate pension liability and other retirement benefits. However, the Govt. of U.P. has not agreed to bear the same.

3. Subsequently, your case was placed before the 54<sup>th</sup> meeting of the Administrative and Finance Sub-Committee, NCCT held on 9<sup>th</sup> February, 199. In the meeting it was decided that due to precarious pension fund position of NCCT they cannot bear the additional liability for the past services of the employee. Otherwise also, deviation in rules to benefit just one employee will run counter to the spirit of justice and equity.

4. In view of the position explained above, it is regretted to inform you that your request for counting the past services for the purpose of pensionary benefits cannot be acceded to."

3.3 Aggrieved by the communication dated 31.05.2000 from respondent no.1, the applicant filed the Writ Petition (Civil) no.891/2001 before the Hon'ble High Court of Delhi, which was later transferred to this Tribunal. The main grounds pleaded by the deceased applicant in his TA are as under:

- a) The factum of his having worked in RCS/UP from 16.04.1958 to 30.09.1964 is not disputed by the respondents nor have they denied existence of any provision against counting of the past service of an employee, who subsequently joined the service of respondent no.2 from a State Government.
- b) As per Rule-9 of the Recruitment and Promotion Rules of NCCT, the CCS (Pension) Rules, 1972 are applicable to the employees of NCCT and its Rule-19 says that the Council (NCCT) shall strive to provide post retirement medical facilities to their pensioners and family members based on Government of India rules and the NCCT employees are entitled to benefits for retirement, e.g., pension, gratuity, leave encashment, GPF etc. on the scale approved by the Government of India for its employees.

c) As per Rule 14 of the CCS (Pension) Rules, 1972, the liability for pension, including gratuity, will be borne in full by the Central/State Government department to which the government servant permanently belongs at the retirement. No recovery of proportionate pension will be made from Central/State Government under whom he had served. It is further supported by the Ministry of Finance OM dated 09.10.1986 and O.M. dated 05.12.1989, wherein the system of sharing proportionate pension liability between the Central/State Governments has been dispensed with.

d) Some employees of NCCT had been granted retirement benefits after counting their past service between 02 to 05 years with the State Governments and other Central Government organizations.

4. Pursuant to the notices issued only respondents 2&3 have filed their replies. The main point raised in the reply of respondent no.2 is that the applicant had worked as Inspector Grade-II in RCS/UP from 16.04.1958 to 30.09.1964 and hence the proportionate burden of pension/gratuity for the said period has to be met by Government of U.P. The pension scheme in NCCT was introduced for the first time in the year 1988. Prior to that only gratuity rules and contributory provident fund

scheme were available to the NCCT employees and thus the liability of paying pension/gratuity to the applicant for the period when he worked in RCS/UP is to be paid by the Government of UP only.

4.1 The main point raised in the reply of respondent no.3 is that the applicant had not completed 10 years' of minimum qualifying service for becoming eligible for pension in the State Government. As such, the Government of U.P. cannot share his pension liability.

5. Arguments of the learned counsel for the parties were heard on 09.09.2016. Shri Anil Singhal, learned counsel for the applicant and Shri J.K. Singh, learned counsel for the respondents argued the matter.

6. We have considered the arguments of the learned counsel for the parties and have also perused the pleadings and the documents annexed thereto. From the records, it is apparent that the applicant was a temporary government servant during the period when he worked in RCS/UP. The Government of UP vide OM No. Finance (General) Section-3NO.3-1152/Ten-915/89 dated 01.07.1989 brought the temporary government servants also under the pension scheme. The said OM further

stated that for becoming eligible for pensionary benefits, an employee ought to have completed 10 years' of regular service.

7. The learned counsel for the respondents had placed reliance on the judgment of the Hon'ble Supreme Court in the case of **Baij Nath Gupta v. State of Bihar & Another**, [(1996) 10 SCC 297]. The petitioner therein was appointed on temporary basis as Assistant Master on 09.02.1955 in the Directorate of Industries, Government of UP and was posted at Kanpur. After working for four years, he was selected by Bihar Public Service Commission and appointed in Government Polytechnic under the Department of Science & Technology on 06.01.1959. In his case also the issue of past service for the purpose of fixation of pension came up. The matter was ultimately got settled by the judgment of Hon'ble Supreme Court. The relevant part of the judgment is extracted below:

*"It is seen that in the U.P. State prior to 1.7.89, no Government servant who Tendered temporary service was eligible for pensionary benefits. Therefore, the Government decided as on the said date to grant pensionary benefits to such of the temporary employees who had put in qualifying service of minimum of 10 years for being eligible for pension. Under those circumstances, since the appellant has not rendered 10 years of qualifying service, he is not eligible for proportionate pension from the State of U.P. even if we assume, without deciding whether Central rule would apply to a Government servant under two State Governments, one on temporary basis and the other as permanent employee".*

8. We have carefully considered the averments made by the deceased applicant in the TA. Indisputably, the CCS (Pension) Rules, 1972 are applicable to NCCT employees. Further, in terms of the OMs dated 09.10.1986 and 05.12.1989 of Ministry of Finance, Government of India, the employees of Central Government are entitled for fixation of their pension by taking into consideration their past service in the State/Central Governments organizations and that there will be no requirement of proportionate sharing of the financial burden by the previous employer. But, in the instant case, we find that the applicant was working in the capacity of a temporary government servant under RCS/UP prior to his joining NCCT on 03.10.1964. The temporary government servants in Government of UP were not covered under the pension scheme. They were brought under the pension scheme w.e.f. 01.07.1989. Therefore, it can safely be assumed that for the period of service rendered by the applicant from 16.04.1958 to 30.09.1964 in RCS/UP, he was not eligible for pension. The issue has been settled by the Hon'ble Supreme Court in the case of **Baij Nath Gupta** (supra).

9. In view of the ruling of the Hon'ble Supreme Court in the case of **Baij Nath Gupta** (supra), we are of the clear opinion that

the past service of the deceased applicant rendered in RCS/UP cannot be taken into account for the purpose of fixation of his pension. We, therefore, do not find any illegality in the action of the respondents in not counting the past service of the applicant rendered in RCS/UP from 16.04.1958 to 30.09.1964 for the purpose of pension. Accordingly the TA is dismissed, being found devoid of merit.

10. No order as to costs.

11. Consequently, MA also stands disposed of.

**(K.N. Shrivastava)**  
**Member (A)**

**(V. Ajay Kumar)**  
**Member (J)**

‘San.’