

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No. 851/2013

New Delhi, this the 27th day of September, 2016

HON'BLE MR. P.K. BASU, MEMBER (A)

Rajvir Singh,
S/o Late Shri Hari Singh,
R/o H.No.18/11, Yadram Mandir Marg,
Chajjupur, East Babrpur,
Shahadara, Delhi-32.

.. Applicant

(By Advocate : Shri U. Srivastava)

Versus

Delhi Jal Board through

1. The Chairman,
DJB, Govt. of NCT Delhi,
Delhi.
2. The Chief Executive Officer,
DJB, Govt. of NCT Delhi,
Varunalaya Phase II,
Karol Bagh, New Delhi.
3. The Member (Administration),
Delhi Jal Board, GNCT Delhi,
Varunalaya Complex Phase II,
Karol Bagh, New Delhi.
4. The Executive Engineer (E&M),
DJB Govt. of NCT Delhi,
Chandrawal Water Works No.1,
Civil Lines, Delhi.

.. Respondents

(By Advocate : Ms. Sakshi Popli)

ORDER (ORAL)

The applicant, who was initially appointed as Phone Inspector in Department of Telecommunications (DoT) joined Delhi Jal Board (DJB) as Junior Engineer and continued as such in DJB and retired from DJB on 31.10.2012.

2. The controversy is regarding the period when the applicant was relieved by DoT on 15.06.1983 and the date DJB issued order of his posting on 24.06.1983. On getting relieved from DoT on 15.06.1983 (Annexure A/4), the applicant wrote a letter dated 16.06.1983 (Annexure A/5) to the respondents, the contents of which are as follows:

“I beg to say that I, Raj Vir Singh S/o Shri Hari Singh, am interested to join for the post of J.E. (E&M). As I have already given an application for the acceptance of this post and extension upto 15.6.83, on dated 6.6.83. Now I have been relieved from my previous Deptt. w.e.f. 15.6.83 a/noon and I am in a position to join on the post of J.E. (E&M) in your undertaking.

So kindly issue me the posting order.”

The veracity of this letter is not denied by the respondents.

3. The dispute arises because while working out the retirement benefits, the respondents counted his period of service in DoT, i.e. between 07.02.1977 to 15.06.1983 and, thereafter, from 24.06.1983 till his date of retirement in DJB. They have not included the period from 16.06.1983 to 23.06.1983 as, according to the respondents, during this period he was neither in the service of DoT nor in the service of DJB.

4. The contention of the learned counsel for the respondents is that the applicant had made a representation regarding the same issue which was rejected by the respondents vide order dated 08.11.1985 and communicated to the applicant. The applicant had thereafter not raised this issue ever and accepted his date of joining as 24.06.1983. It is argued that once the issue was closed through rejection of his request for counting this period in 1985, the applicant cannot raise this issue by filing an O.A. in 2013.

5. The learned counsel for the applicant states that it would be clear from Annexure A/5 that he had reported for duty with DJB on 16.06.1983 and sought a posting order. The respondents took about a week and issued his posting order on 24.06.1983. Therefore, it is argued that the period between 16.06.1983 to 23.06.1983 should be considered as on duty with DJB. Regarding why he has raised this issue now when already it has been settled by the respondents by rejecting his representation in 1985, learned counsel for the applicant explained that he became aware of the implication of this only when he retired, when his retirement benefits got reduced due to this.

6. Learned counsel for the respondents, however, counters this contention of the applicant stating that in his representations filed on 29.07.1999 and 15.05.2000, the applicant had only requested for counting of his past service rendered from 07.02.1977 to

15.06.1983 and even at that late stage, he had not raised the issue of counting of his service between 16.06.1983 to 23.06.1983.

7. Heard the learned counsel for both the sides and perused the pleadings.

8. The only issue which has to be decided is whether the period of 16.06.1983 to 23.06.1983 should be counted as period spent in the service of DJB. From Annexure A/5, it is clear that the applicant tendered his joining on 16.06.1983. Through this letter, he mentioned that he is now ready to join on 16.06.1983 and sought a posting order. The respondents took about a week to issue posting order dated 24.06.1983.

9. On the question why the applicant did not mention about this period in his earlier representations of 1999 and 2000, the simple explanation of the learned counsel for the applicant is that the applicant, who is a junior employee and is a technical hand, would not have been well aware of the various rules and provisions in FRSR, CCS (Pension) Rules, etc. His seeking counting of period spent with DoT does not mean that he has given up his claim for the period 16.06.1983 to 23.06.1983 in DJB. Any person would have legitimately concluded that since he has given his joining on 16.06.1983 and this was accepted by the respondents and posting order issued on 24.06.1983, this period will automatically be counted. In fact, with lapse of time, the applicant appears to have

forgotten this issue and only when the pensionary benefits worked out were less, he has been jolted into action.

10. From the facts of the case, I am of the view that it would be great injustice to the applicant to deny him counting of the period between 16.06.1983 to 23.06.1983 for the purpose of calculation of pensionary benefits.

11. From the documents, it is clearly established that the applicant worked in DoT from 07.02.1977 to 15.06.1983, was relieved on 15.06.1983, joined DJB on 16.06.1983 and thereafter got his posting order on 24.06.1983. There is no other interpretation possible to my mind. The O.A. is, therefore, allowed with a direction to the respondents to count the period from 16.06.1983 to 23.06.1983 as service with DJB for the purpose of calculation of retirement benefits and the respondents shall work out the revised retirement benefits, i.e. Pension, leave encashment etc. after including the aforesaid period. The time frame of 90 days is fixed for the respondents to comply with this order from the receipt of a certified copy of this order. No order as to costs.

(P.K. Basu)
Member (A)

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