

**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A.No.4229/2012

Friday, this the 4th day of December, 2015

**Hon'ble Mr. A.K. Bhardwaj, Member (J)
Hon'ble Dr. B.K. Sinha, Member (A)**

Mr. Surjit Singh s/o Mr. Mohan Singh
37/7, Ist Floor
East Patel Nagar, New Delhi-8

..Applicant

(Mr. M S Saini, Advocate)

Versus

1. Delhi Development Authority
Through its Vice Chairman
Vikas Sadan, New Delhi
2. The Dy. Director
Personnel II, DDA
Vikas Sadan, New Delhi
3. Garrison Engineer (North)
Air Force, Palam
Delhi Cantt. New Delhi

..Respondents

(Mr. Manish Garg, Advocate for respondent Nos. 1 and 2 –
Mr. T. A. Ansari, Advocate for respondent No.3)

O R D E R (ORAL)

Mr. A.K. Bhardwaj:

The prayer made in the present Original Application filed under
Section 19 of the Administrative Tribunals Act, 1985 reads thus:-

“(i) allow the instant O.A by quashing and setting aside the
impugned order dated 6 & 26 Jun. 2012; and

(ii) to direct the Respondents to count/add the period of service
rendered by the applicant in the MES Department for all purposes;

(iii) to direct the Respondents to grant all consequential benefits including leave encashment, gratuity, grant of ACP and terminal benefits;

(iii) to direct the Respondents to make payment to the applicant of his Provident Fund dues with upto date interest @ 12% thereon;

(iv) to pass such order as the Hon'ble Tribunal may deem fit and appropriate in the facts and circumstances of the case."

2. Mr. M.S. Saini, learned counsel for applicant submitted that for the period from 1972 to 1981, i.e., from 05.10.1972 to 31.07.1981, the applicant worked as Supdt. B/R Grade II in Military Engineering Service (MES) and thereafter having applied for the post of Junior Engineer in Delhi Development Authority (DDA) through proper channel and having tendered technical resignation, he joined the service in DDA in the year 1981. According to him, once the applicant had joined DDA after tendering technical resignation, his past service rendered in MES need to be counted for the purpose of terminal benefits. However, he did not press his relief for counting such service for financial upgradations in terms of Modified Career Progression / Assured Career Progression Schemes.

3. Mr. Manish Garg, learned counsel for respondent Nos. 1 and 2 submitted that the circular placed on record at page 23 of the paper book was issued in the year 2008 and would not apply retrospectively.

4. We heard the learned counsels for the parties and perused the record.

5. The issue of counting of service rendered in the previous Organization is regulated in terms of Government of India, Department of Personnel & A.R., O.M. No.28-10/84-Pension Unit dated 29.08.1984. The relevant excerpt of the O.M. reads thus:-

“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 by 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 case 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 services 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.

Note: Various Ministries/ Departments of the Government of India may accept pension liability in all these cases where Central Government employees move to Central Autonomous Bodies with proper permission and discharge the same in the prescribed manner. For this purpose, 'proper permission' means that Government servant applies for the post in Autonomous Body through 'proper channel' and he resigns with due intimation that he is doing so to take up assignment in Autonomous Body or the Government servant is relieved of his duties by the Government Department/ Office to take assignment in an Autonomous Body. Pension liability may also be accepted in past cases, provided the Government servant took up the assignment in Autonomous Body with proper permission. The Ministry of Defence, etc. may please issue specific directions to their Financial Advisers to advise the Autonomous / Statutory Bodies under their administrative control to make the above provisions in their rules and regulations. In cases where any practice other than the mentioned above is presently being followed, the same may be revised in accordance with these decisions and they may also provide for acceptance of pension liability for the past service.

- (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 Government'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 stipulate 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 to another Central Autonomous body.

The above procedure will be followed *mutates mutandis* in respect of employees going from one autonomous body to another."

6. Previously there was a rule that the Organization from which the employee resigned need to deposit the capitalized value of pensionary benefits with the Department the employee joined after technical resignation. Nevertheless, such practice has since been dispensed with.

7. In view of the aforementioned, Original Application is disposed of with direction to the respondents to reexamine the claim of the applicant for counting of past service rendered by him in MES for the purpose of pensionary benefits and his eligibility to seek voluntary retirement from

service, within eight weeks from the date of receipt of a copy of this Order.

No costs.

(Dr. B.K. Sinha)
Member (A)

(A.K. Bhardwaj)
Member (J)

December 4, 2015
/sunil/