

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A No. 180/00694/2017

Tuesday, this the 30th day of October, 2018.

CORAM:

HON'BLE Mr. ASHISH KALIA, JUDICIAL MEMBER

Revindran Nair B, 65 years,
S/o. Raghaven Pillai K,
F/Man(Rtd), Naval Dockyard, Lion Gate,
Shahid Bhagat Singh Road, Mumbai – 400 023.
Residing at : Suravi, Ponnaram Thottam,
Mavelikkara (P.O), Kerala – 690 101. - Applicant

[By Advocate Mr. S. Prasanth]

Versus

1. Union of India represented by
The Secretary to Government of India,
Ministry of Defence, New Delhi – 110 001.
2. Flag Officer Commanding-in-Chief,
Headquarters, Western Naval Command,
Shahid Bhagat Singh Road,
Mumbai - 400 001.
3. The Admiral Superintendent,
GM(HR)&PM, Naval Dockyard,
Lion Gate, Shahid Bhagat Singh Road,
Mumbai – 400 023. - Respondents

[By Advocate : Mrs. P.K. Latha, ACGSC]

The application having been heard on 24.10.2018, the
Tribunal on 30.10.2018 delivered the following:

ORDER**Per: Ashish Kalia, Judicial Member**

The brief facts of the case are as follows:-

The applicant joined as apprentice in Naval Dockyard, Mumbai in March, 1971. He was absorbed as Mechanic in 1975. The applicant sought for voluntary retirement and requested that his 3 years apprenticeship may also be counted along with 17 years service as on 1991. The request of the applicant was rejected despite the fact that as per Rule 48-B of CCS (Pension) Rules, five years had to be added to his qualifying service. He has submitted representation on 02.06.2016 and that has been rejected. The 3rd respondent examined the aspect of counting of apprenticeship service towards pension and has observed that as per Rule 16 of CCS (Pension) Rules, service as an apprenticeship shall not qualify for pensionary and other retirement benefit. It is also submitted that applicant had resigned from service on 19.01.1992, he is not entitled to any pensionary benefits. Then he approached this Tribunal and sought the following reliefs:-

“i) Issue an order setting aside Annexure A-3, A-8 and A-9 letters.

ii) Issue an order directing the respondents to grant the applicant pensionary benefits for his period of service considering his period of apprenticeship along with his period of regular service and to grant him the benefit of additional 5 years of service as per Rule 48-B of CCS (Pension) Rules, 1972.

iii) Issue an order directing the respondents to grant the applicant pensionary benefits from the date of his demitting service in 1992.

iv) Issue such other appropriate order or direction as this Hon'ble Tribunal ma deem just and proper to issue in the circumstances of the case.

v) To grant the costs of this application.”

2. The applicant relied upon the judgment in ***AIR 1983 SC 130***,

D.S. Nakara v. Union of India.

3. Notices were issued and respondents put appearance through Mrs. P.K. Latha, learned ACGSC and filed reply statement.

4. In the reply statement, they have admitted the factual position that the applicant had working there from 1974 till 1992 and submitted that apprenticeship is not part of employment and this is mere a skill development training certificate course. The total qualifying service rendered by the applicant is 17 years, 9 months and 17 days. Under the CCS (Pension) Rules, 1972, personnel resigned from service are not covered under pensionary benefits. To facilitate such personnel who wish to leave service prior to superannuation while claiming pensionary benefits are provided with the provision of Voluntary Retirement Scheme (VRS), for which certain conditions are required to be fulfilled which includes minimum 20 years of net qualifying service. The applicant herein is not fulfilling the required criteria. Hence, he was not entitled for any pensionary benefits.

5. The respondents have cited Civilian Establishment list Part-I (non-industrial) No. 260/92992 dated 08.08.1992 regarding resignation

from service of the applicant. In view of this, the respondents have rejected the claim of the applicant and giving emphasis to a catena of judgments.

6. Heard Mr. S. Prasanth, learned counsel for the applicant and Mrs. P.K. Latha, learned ACGSC for the respondents at length.

7. The applicant has raised a question of law before this Tribunal is that whether he is entitled to get benefits of Rule 48-B of CCS (Pension) Rules envisaged that on completion of 25 years of qualifying service, the employee may retire from service or required by an authority as the case may be. A government servant shall give notice in writing atleast three months before the date of which he wishes to retire. Thus, he is entitled for pension.

8. During the course of the argument, learned counsel for the applicant has cited various judgments:

W.P (c) No. 957/2011 and connected cases in ***Naresh Kumar and Ors.***

v. BSES Rajdhani Power Ltd., and Ors., wherein it is held that :

“It may be noted that provision of Rule 48-B is as of today no longer on the stature book however, at the relevant point of time when the petitioner retired, this Rule was undoubtedly applicable as per the position which has emerged on record.”

The Hon'ble High Court in Naresh Kumar supra is of the view that Rule 48-B is not available and the applicant was retired when these rules were applicable.

Rule 48-B states as below:

“Addition to qualifying service on voluntary retirement: (1) The qualifying service as on the date of intended retirement of the Government servant retiring under Rule 48(1)(a) or Rule 48-A of Clause (k) of Rule 56 of the Fundamental Rules of Clause (I) of Article 459 of the Civil Service Regulations, with or without permission shall be increased by the period not exceeding five years, subject to the condition that the total qualifying service rendered by the Government servant does not in any case exceed thirty-three years and it does not take him beyond the date of superannuation.”

In Shanti Devi v. Delhi Transport Corporation W.P © No. 4871/2010, the differentiation between retirement and resignation were discussed.

9. Keeping in view the above judgment, this Tribunal is of the opinion that after getting benefit of 5 years service as qualifying service under Rule 48-B Pension Rules, applicant is having more than 22 years of qualifying service. Thus, he is entitled for pensionary and terminal benefits. The same shall be granted to him within a period of 90 days with interest at the GPF rate from the date when it became due subject to any deduction that may have to be made on account of EPF, if any. In view of the above, the O.A succeeds. No order as to costs.

(Dated, 30th October, 2018.)

(ASHISH KALIA)
JUDICIAL MEMBER

ax

Applicant's Annexures

- Annexure A1 - True copy of the apprenticeship certificate issued to the applicant.
- Annexure A2 - True copy of the representation dated 2-6-2016 sent by the applicant to the 3rd respondent.
- Annexure A3 - True copy of the letter dated 16.11.2016 sent by the 3rd respondent to the applicant.
- Annexure A4 - True copy of the representation dated 29.11.2016 sent by the applicant to the 3rd respondent.
- Annexure A5 - True copy of the letter dated 7.11.1996 sent by the 2nd respondent to the Chief Inspector of Naval Armament.
- Annexure A6 - True copy of the letter dated 17.01.2017 sent by the applicant to the 3rd respondent.
- Annexure A7 - True copy of the letter dated 21.4.2017 sent by the 3rd respondent to the 2nd respondent.
- Annexure A8 - True copy of letter No. CS/IV/3008/Gen (Vol X) dated 22.06.2017 sent by the 2nd respondent to 3rd respondent.
- Annexure A9 - True copy of the letter No. DYP/ FP/ 5220/ F/M/1126 dated 15.07.2017 sent by the 3rd respondent to the applicant.

Annexures of Respondents

- Annexure R1 - Civilian Establishment List Part-I (Non Industrial) No. 260/92992 dated 08.08.1992 regarding Resignation from service of the applicant.
- Annexure R2 - Copy of Rule 48(B) of CCS Pension Rules.
- Annexure R-3 - Copy of Rule 26(1) of the CCS Pension Rules
- Annexure R-4 - Copy of the Hon'ble CAT, Ernakulam Order in O.A No. 814/2016 dated 15.01.2018.
