

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/01552/2018

DATED THIS THE 03RD DAY OF JUNE, 2019

HON'BLE DR.K.B.SURESH, MEMBER (J)

HON'BLE SHRI C.V. SANKAR, MEMBER (A)

M. Lakshmappa,
S/o late Marappa,
Aged about: 66 years,
Retired Assistant Accounts Officer,
O/o Director of Accounts (Postal)
Karnataka Circle,
Bangalore – 560 001
Residing at:
No. 2376 “C” Block,
Sahakaranagar,
Bangalore – 560 092 Applicant
(By Advocate Shri P. Kamalesan)

Vs.

1. Union of India,
Represented by Secretary,
Department of Post,

Dak Bhavan,
New Delhi

2. Chief Post Master General,
Karnataka Circle,
Bangalore – 560 001

3. The General Manager (PA &F),
Karnataka Circle,
Bangalore GPO – 560 001

4. Director,
Technical Education in
Karnataka,
Government of Karnataka,
Bangalore – 560 001

....Respondents

(By Shri S. Sugumaran, Counsel for the Respondents)

O R D E R (ORAL)

(HON'BLE DR. K.B. SURESH, MEMBER (J)

The matter relates to benefits relating to retirement. The Hon'ble Apex Court had made it clear that pension is no bounty. It does not depend on the goodwill of the employer. It is the right gained by an employee.

2. The question which would arise is that whether the past service in the State Government should be counted. The matter seems to be covered by the Department of Pensions and Pensioners' Welfare OM which we quote:

"No. 28/30/2004-P&PW (B)
Ministry of Personnel, Public Grievances and Pension
Department of Pension and Pensioners' Welfare

Lok Nayak Bhavan, Khan Market
New Delhi – 110 003
Dated, the 28th October, 2009

OFFICE MEMORANDUM

Subject: - Mobility of personnel amongst Central/State & Autonomous Bodies while working under Pensionable establishments – regarding.

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The undersigned is directed to say that while introducing the New Pension Scheme from 1/1/2004, amendments to various existing rules including Rule 2 of the CCS (Pension) Rules, 1972 were made whereby these rules became inapplicable to those appointed to Central Govt. Services and posts from 1/1/2004. Also the new and changed position obtaining on mobility of personnel between Central Government departments; between Central and State Governments; and between Govt. departments and autonomous bodies on technical resignation from 1/1/2004 under these rules were clarified vide OM of even number dated 26/7/2005.

2. *The position has been further reviewed by the Government of India and it has been decided to continue mobility of Govt. servants/Autonomous body employees appointed on or before 31.12.03 and who were governed under the old non-contributory Pension scheme of their respective Governments/organizations in order to provide for the continuance of Pensionary benefits based on combined service in accordance with the CCS (Pension) Rules, 1972 as under:-*

a. between the Central Govt. departments covered under CCS (Pension) Rules, 1972; and Railway Pension Rules, 1993 or other similar non-contributory pensionable establishments of Central Govt. covered by old Pension Rules other than CCS (Pension) Rules, 1972;

b. between State and Central Govt provided the employees were appointed in the State Govt (s) on or before 31.12.2003 and covered under old pension scheme similar to CCS (Pension) Rules, 1972;

c. the pre-existing arrangement of mobility between State/Central Autonomous Body to Central/State Govt. and between autonomous bodies that were governed by old pension schemes in force upto 31/12/2003 vide No. 28/10/84-P&PW dated 7/2/1986 and OM No. 28/10/84-Pension unit dated 29/8/1984 stand restored although those under CPF etc. will not be allowed entry into the old pension scheme on appointments from 1/1/2004.

3. *These instructions modify/supersede provisions in the OM of even number date 26/7/2005 to the extent as indicated above and take effect from 1.1.2004.*

4. *This issues with the concurrence of Department of Expenditure*

vide their UO No. 335/EV/2009 dt 5/10/2009 and in consultation with C&AG vide their U.O. No. 93-audit (Rules)/28-2009 dated 09-10-2009

*Sd/-
(Raj Singh)
Director”*

3. Therefore, applicant is eligible for his past services to be counted and granted benefit prospectively. We will make it clear that applicant will not be eligible for enhanced benefits in the interregnum period but will commence his right only from the date of filing of the OA.
4. The OA is therefore allowed to this extent. No order as to costs.

(C.V. SANKAR)

MEMBER (A)

(DR.K.B.SURESH)

MEMBER (J)

Annexures referred to by the applicant in OA No. 170/01552/2018

Annexure-A1: Copy of the Office of Director, Technical Education letter dated 16.05.1997

Annexure-A2: Copy of the Office of the Director, Accounts (Postal) letter dated 13.12.2012

Annexure-A3: Copy of the representation of the applicant dated 08.04.2013

Annexure-A4: Copy of the Chief Post Master General letter dated 24.01.2016

Annexure-A5: Copy of the Director of Accounts (Postal) letter dated 23.02.2016

Annexure-A6: Copy of the General Manager (PA & F) letter dated 10.04.2018

Annexure-A7: Copy of the Rule 14 Note 6 (2) (2) of CCS pension rules 1972

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