

**CENTRAL ADMINISTRATIVE TRIBUNAL  
MADRAS BENCH**

**OA.No.411/2016**

**Dated Tuesday, the 15<sup>th</sup> day of April, 2019**

**PRESENT**

**Hon'ble Mr.R.Ramanujam, Administrative Member**

K.M.Vedapuri,  
Flat 2B, J.D.Shantiniketan,  
141, Rajamannar Salai, KK Nagar,  
Chennai 600 078.

...Applicant

By Advocate M/s.P.Ulaganathan

Vs.

1.Union of India, rep., by  
The Secretary, Ministry of Water  
Resources, R.D & G.R  
Shram Shakthi Bhawan, Rafi Marg,  
New Delhi 110 001.

2.The Director (Administration),  
Central Groundwater Board,  
Ministry of Water Resources,  
Bhujal Bhawan, NH IV, Faridabad  
Haryana 121001

3.Senior Accounts Officer,  
Pay & Accounts Office,  
Central Groundwater Board,  
Ministry of Water Resources,  
Bhujal Bhawan, NH IV, Faridabad  
Haryana 121001

4.The Regional Director,  
Central Ground Water Board,  
Central Region, NS Building,  
Civil Lines, Nagpur 440 001. ....Respondents

By Advocate Mr.S.Nagarajan

**ORDER****Pronounced by Hon'ble Mr.R.Ramanujam, Member(A)**

Heard. The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 seeking the following relief:

"To direct the respondents to revise the pension of the applicant treating 33 years as his qualifying service, instead of 31 years, after adding the period of service from 11.02.1982 to 12.02.1984 that has been declared as dies non for all purposes except pension, as qualifying for pension or pass any other appropriate order or direction, in the circumstances of the case and thus render justice."

2. It is submitted that the applicant who had been working as Junior Hydro-Geologist in the respondent department w.e.f 01.06.1971 was deputed to Algerian Government on foreign assignment from 10.02.1979 for two years which was extended for a period of one more year. He was to report back to duty on 10.02.1982. However, since he was allegedly not relieved by the borrowing foreign government, he could resume service back home only in February 1984. The respondent department had proposed a penalty of compulsory retirement for unauthorized absence and overstay during the period 11.02.1982 to 12.02.1984 after conducting departmental proceedings. However, the penalty could not be imposed on him as an OA filed by the applicant alleging discrimination was allowed and writ petition and SLP filed

thereagainst failed. In the mean time, the applicant retired on superannuation. The period of overstaying from 11.02.1982 to 12.02.1984 was treated as Dies non for all purposes except for pension.

3. Learned counsel for the applicant would submit that while the applicant had been sanctioned pension, the period of overstaying had not been regularized so as to strictly comply with the decision that the respondents themselves had taken not to treat the period of overstaying as dies non for pension purposes. His last pay drawn and consequently the pension allowed to him should have been higher in terms of such decision. Since the period of overstaying was not envisaged to affect his pension, the applicant would seek an appropriate direction in this regard from the Tribunal.

4. Learned counsel for the respondents would oppose the prayer stating that the applicant was getting full pension on the VI CPC scales regardless of qualifying service as the concept of pro-rata pension based on number of years of qualifying service had been done away with. As the applicant is already drawing full pension, the addition of two years' qualifying service would make no difference to the pension of the applicant, it is pointed out.

5. I have considered the matter. It is not in dispute that initially

the respondents treated the period of overstay as Dies non for all purposes namely increments, leave, pension, etc. and specifically held that the interruption in service caused due to his unauthorized absence from 11.02.1982 would also have the effect of forfeiture of past services under Rule 27 of the CCS Pension Rules, 1972. However by Annexure A-12 order dated 04.01.2014, an amendment was made to treat the period of unauthorized absence from duty w.e.f 11.02.1982 to 12.02.1984 as Dies-non for all purposes except pension. Accordingly, the question of forfeiture of past service on account of Dies non would not arise as any such forfeiture would affect his pension.

6. What the applicant is seeking here, however, is more than counting of his past services. He is seeking for the period of overstay to not only be treated as duty but is praying for increments also for such period as without such increments the applicant couldnot be sanctioned additional pension. I am unable to see any decision taken by the respondents much less an order passed in this regard to treat the period of absence from 11.02.1982 to 12.02.1984 as duty entailing sanction of increments for the purpose. On the other hand, Annexure A-12 order continues to describe the absence of the applicant during the said

period as unauthorized even after the amendment.

7. If the applicant has overstayed his foreign deputation without authority and the period of absence has been treated as Dies non, the question of sanctioning increments for the period does not arise. The OA is wholly misconceived and is accordingly dismissed.

No costs.

**(R.RAMANUJAM)  
MEMBER (A)  
15.04.2019**

M.T.