

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH**

**O.A. No.1778 of 2003**

**New Delhi, this the 7<sup>th</sup> day of January, 2005**

**HON'BLE SHRI SHANKER RAJU, MEMBER (JUDICIAL)**

T.C. Gupta  
S/o late B.R. Gupta  
R/o 224, Munirka Vihar,  
New Delhi.

....Applicant

(By Advocate : Shri Harvir Singh)

VERSUS

1. The Secretary  
Ministry of Urban Development,  
Nirman Bhawan, New Delhi.
2. D.G. (Works)  
Ministry of Urban Development,  
Nirman Bhawan, New Delhi.
3. Chief Controller of A/c  
Room No.112 Nirman Bhawan,  
New Delhi-110002.
4. Pay & Account Officer  
(North Zone),  
CPWD, R.K. Puram,  
New Delhi-110023.
5. Mr. R.C. Saxena  
(Pay & Accounts Officer)  
North Zone, R.K. Puram,  
New Delhi.
6. The Superintending Engineer  
419, Mohd. Sayeed Khan,  
Agra Cantral Circle CPWD,  
Agra.
7. The Secretary General  
Standing Conference of Public Enterprise,  
7, Lodhi Road,  
New Delhi-110003.

.....Respondents

(By Advocates : Shri J.B. Mudgil for Respondents no.1 to 6  
Shri V.P. Singh for Respondent No.7)

**ORDER (ORAL)**

Applicant impugns respondents' orders dated 8.8.2002 and 21.12.1982 whereby pro rata pension is denied. Applicant has also sought payment of pension with all revisions.

2. Applicant has joined CPWD as Junior Engineer on 22.10.1964 where he worked till 3.9.1968. Applicant was sent on foreign deputation to Kathmandu from 4.9.1968 to 2.8.1972. On repatriation, he joined CPWD from 3.8.1972 to 16.7.1976. Thereafter he joined Delhi Development Authority on deputation from 16.7.1976 to 4.6.1979. Applicant remained in CPWD on repatriation from 5.6.1979 to 13.7.1980. Thereafter, applicant again went on deputation to National Building Organization from 14.7.1980 and remained there till 17.7.1981. Applicant finally joined Standing Conference of Public Enterprises, i.e. respondent No.7, from 17.7.1981 to 1.11.1986 and sought voluntary retirement from CPWD and thereafter respondent No.7 dispensed with the services of the applicant w.e.f. 13.2.1988.

3. It is contended that lien of the applicant had been maintained in CPWD till 1.11.1986 when he voluntarily retired. According to him, his lien was maintained as he was retired on 1.11.1986 and not from 17.7.1984. His request for pension having been turned down gives rise to the present OA.

4. Learned counsel of the applicant Shri Harvir Singh contended that as the applicant has maintained his lien in CPWD from 22.10.1964 till finally retired from 1.11.1986, which is deemed to be extension of his lien. As such having served for more than 20 years, he is entitled for pro rata pension.

5. On the other hand, learned counsel for the respondent No.7 stated that he is a perfunctory party and in the reply, it is stated that it is for respondent no.1 to 6 to decide the matter.

6. On the other hand, learned counsel for the respondents no.1 to 6 stated that pension case of the applicant was sent to the PAO, CPWD and the same was returned with the remarks that no foreign service contribution has been received from SCOPE and the applicant has not been absorbed, the order whereby his lien has been extended till 1986 to be provided. It is also stated that no clarification has been issued to extend the lien of the applicant beyond 17.7.1984 and the voluntary retirement was issued to the applicant effective from 1.11.1986 and in view of provisions of Rule 48 (A) (6) (b) of the CCS (Pension) Rules, 1972, as the

applicant had sought voluntary retirement to get absorbed in public sector undertaking, pension is not permissible. Accordingly, it is stated that the applicant is entitled for pension till 16.7.1984 but not upto 1.11.1986,

7. I have carefully considered the rival contentions of the parties and perused the material available on record.

8. The question for consideration is whether the applicant was entitled for voluntary retirement or not. I find that the applicant was preceded to Standing Conference of Public Enterprise for a period of two years, which was extended for third year till 17.7.1984. Thereafter PESA was dissolved. The request for voluntary retirement was accepted w.e.f. 1.11.1986.

9. Rule 48(A) (6) (b) of CCS (Pension) Rules, 1972 provides that rule would not apply on completion of 20 years qualifying service to a Govt. servant retired for being absorbed permanently in an autonomous body or a public sector undertaking to which he is on deputation at the time of seeking voluntary retirement. I find that the applicant was never permanently absorbed as he was still maintaining his lien with CPWD. That is because of the fact that there was a confusion as to whether there was an extension or not but the act of the respondents by accepting voluntary retirement from 1.11.1986 shows that applicant had completed 20 years of service and his voluntary retirement was rightly accorded by the respondents.

10. It is trite law that the benefits of past service to a deputationist who is absorbed cannot be forfeited. One is entitled to pro rata pension etc. as held by the Apex Court in the case of *Mani Kant Gupta and others Vs. State of U.P.*, 2004 (1) ATJ SC 349.

11. Right to pension is not a bounty but is a fundamental right of Govt. servant and on completion of 20 years of service, one cannot be deprived of the benefits in the light of the decision of the Constitutional Bench of the Apex Court in the case of *D.S. Nakara Vs. Union of India*, 1983 SCC (L&S) 145.

12. In the result, for the foregoing reasons, stand taken by the respondents cannot be countenanced and accordingly OA is allowed. Impugned orders are

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quashed and set aside. Respondents are directed to accord to the applicant pro rata pension duly revised in terms of Pay Commission's recommendations and release the arrears within two months from the date of receipt of a copy of this order. However, interest at the simple rate of 9% is accorded to the applicant from the date pension is due till it is paid to the applicant. No costs.

S. Raju  
(SHANKER RAJU)  
MEMBER (JUDICIAL)

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