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CENTRAL ADMINISTRATIVE TRIBUNAL : PRINCIPAL BENCH

OA 2461/2003

New Delhi, this the ¹⁵20... day of July, 2004

Hon'ble Mr. Sarweshwar Jha, Member (A)

Shri J. B. Saxena
S/o Late S^hri R.B. Saxena,
R/o E-225, Amar Colony,
New Delhi. Group B.
Lecturer.

...Applicant

(By Advocate Sh. Sarvesh Bisaria)

V E R S U S

1. Govt. of NCT of Delhi
through Chief Secretary
Delhi Secretariat, I. P. Estate
New Delhi

2. Principal Secretary,
Department of Training and Technical Education,
Muni Maya Marg, Pitam Pura,

...Respondents

(By Advocate Mrs. Renu George)

O R D E R

Heard.

2. This application has been filed with prayers that the respondents be directed to count the service of the applicant from 23-1-1958 to 23-11-1961 for pensionary and retirement benefits and to consider him for in situ promotion to the next higher grade and also to pay him all consequential benefits.

3. The applicant, after having passed the intermediate examination and completed diploma in Draftsman from recognised college/institution, joined as Drawing Instructor under the Directorate of Training and Employment, State of UP on 23/1/1958. While working as Drawing Instructor at ITI, Bareilly he applied through proper channel in May 1961

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for appointment as a Drawing Instructor under Delhi Administration. After facing the necessary interview and after having been found successful, he was appointed as Drawing Instructor under Delhi Administration on 25/11/1961. Prior to his having joined the respondents, he had submitted technical resignation to the Directorate of Training and Employment, Government of UP and which was accepted by them on 23/11/1961. He cleared the period of probation vide order of the respondents dated 10/6/1963. He has submitted that while his services have been satisfactory and he should have been considered for promotion to the next higher grade, and for which he has been eligible, he was not considered for the same while in service. In the mean, time he became due for retirement on superannuation on 30/9/1992. He was, however, shocked to know that the service rendered by him in the Government of UP from 21/1/1958 to 23/11/1961 had not been counted by the respondents as qualifying service for the purpose of pension and retirement benefits. Accordingly, he submitted a detailed representation to the respondents on 10/3/1992 requesting them to count the said period as qualifying service. It appears that there was some correspondence between the respondents and the State Government of UP in the matter, but the applicant finally had to retire without the said period having been counted as qualifying service. He has submitted further representations to the respondents in March, 1993 and October 1993 (Annexure 4) and also that the respondents wrote to the Government of UP in the matter, it was only in March, 1996 that the State of UP issued a letter to the effect that the service rendered by the applicant from 23/1/1958 to 23/11/1961 be counted for pensionary and retirement benefits (Annexure 5). The said

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letter was forwarded by the G.B. Pant Polytechnic to the respondents in July, 1996 for further necessary action and also that the respondents issued a letter on 29/8/1996 for further action (Annexue 6). The applicant reminded the respondents to take early action in the matter, but the needful had not been done by them till he had to submit a detailed representation to the Chief Minister, Delhi on 1/7/2002 forwarding copies of the relevant papers. It is further observed that the Chief Minister's office acknowledged the letter of the applicant, but this has not resulted in the requisite action being taken by the respondents. From the letter which the respondents have addressed to the applicant on 11th December, 2002 (Annexure 8) it is, however, observed that they had asked the Principal of G. B. Pant Polytechnic, New Delhi to send the requisite information as asked for in the letter of the Directorate dated 29-08-1996 to them immediately. The applicant thereafter submitted a detailed representation to the respondent~s on 28/7/2003 to which the respondents asked the applicant to visit their office. The needful is yet to be done by the respondents and hence ~this OA.

4. The respondents have filed their counter reply and have maintained that the application is time debarred, as he is claiming the benefit of past service after 30 years. They have also maintained that the applicant had been required to give option for counting his past service within one year of his joining. While the applicant joined the respondents' department in 1961, he applied for counting of past service in 1992 when he was on the verge of retirement. They have also submitted that they did try to obtain necessary information

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from the previous employer of the applicant, but no response was received from them for long. They have further referred to the Government of UP having simply conveyed that they have no objection to the counting of the service of the applicant as rendered in the State of UP. The respondents expected the said Government to confirm whether the applicant had been paid the terminal benefits while his technical resignation was accepted. In case the applicant had been given any terminal benefits, the same had to be surrendered to the State Government. There is also a mention in the reply of the respondents that the representation filed by the applicant addressed to the Chief Minister etc. will be of no avail until and unless relevant information and documents are made available by the Government of UP. They have also submitted that they are exploring the possibility of considering the case in the absence of relevant information from the previous employer and that advice in this regard is being sought from the Finance Department and Services Department of the Administration.

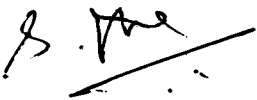
5. On perusal of the facts of the case, it is observed that most of the things submitted by the applicant have been accepted by the respondents. It is also quite clear that the applicant had applied for the post of Drawing Instructor under Delhi Government through proper channel; and before he joined them on his selection, he had submitted a technical resignation to the previous employer and further that the same had been accepted by the previous employer. The only infirmity which has been noticed in the case of the applicant is that this piece of information does not appear to have been recorded in the service book of the employee. It is

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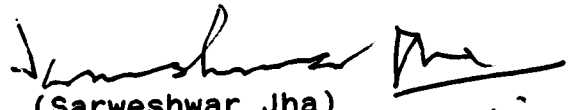
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also noticed that the applicant has been found not to have exercised his option for counting the service that he had rendered under the State Government of UP within one year of his having joined the respondents. Instead, he according to the respondents, prayed for it after 30 years of his having left the previous employer when he was nearing his retirement on superannuation. It is, however, not clear as to why and how the matter could not be considered and disposed of by the respondents in spite of the fact that the State Government of UP had given their no objection to the period in question being counted as qualifying service for pensionary benefit. It is expected that non-availability of information like whether terminal benefits had been paid to the applicant at the time of his technical resignation should not have held back the decision being taken in the matter by the respondents. This aspect of the matter could have been sorted out by the respondents even before the applicant retired on superannuation. Already more than 12 years have passed and this small piece of information is still awaited. The matter appears to be pending consideration of the respondents in the absence of the said information from the State Government in consultation with the Finance Department as well as Services Department of the Administration. While it is not appreciated that the matter should have taken so long, it will be expected of the respondents that they consider the relief as prayed for by the applicant and do the needful without any further loss of time.

6. Having regard to the facts and circumstances of the case and particularly the fact that the matter is under consideration of the respondents and also that the State of UP



have given their no objection to the period of service rendered by the applicant under them being counted as qualifying service for pensionary purposes, this Original Application is disposed of with directions to the respondents to consider the matter as prayed for by the applicant under the relevant rules and to do the needful within a period of three months from the date of receipt of a copy of this order. No order as to costs.


(Sarveshwar Jha)
Member (A)

Gulshan/