

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5665 of 2011

MATIN AHAMAD S/O LATE HAFIZ MOHD. YAHYA RESIDENT OF DR.
(MRS.) USFA ZAMAN HOUSE, 2ND FLOOR, SHAHGANJ DARGAH
ROAD, P.O- MAHENDRU, P.S- SULTANGANJ, PATNA, BIHAR
... Petitioner

Versus

1. THE UNION OF INDIA THROUGH SECRETARY MINISTRY OF CULTURE GOVT. OF INDIA, NEW DELHI, SHASTRI BHAWAN, NEW DELHI.
2. THE JOINT SECRETARY, MINISTRY OF CULTURE, GOVT. OF
3. THE SECRETARY HUMAN RESOURCES DEPARTMENT, GOVT. OF INIA, NEW DELHI.
4. ACCOUNTANT GENERAL, BIHAR, PATNA.
5. CHAIRMAN KHUDA BAKSHSH ORIENTAL PUBLIC LIBRARY, PATNA, DISTRICT- PATNA.
6. DIRECTOR, KHUDA BAKSHSH ORIENTAL PUBLIC LIBRARY, ASHOK RAJ PATN, PATNA, DISTRICT- PATNA
7. THE DIRECTOR, CENTRAL INSTITUTE OF INDIAN LANGUAGES, MAHASAGAYOTRI, MYSORE KARNATAKA 570006 ... Respondents

Appearance :

For the Petitioner	:	M/s Surendra Kumar Singh, Md. Kamaluddin & Shashi Kumar, Advs.
For the UOI	:	Mr. S.D. Sanjay. Sr. Adv. with M/s Santosh Kumar Singh & Kanak Verma, Advs.

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL ORDER

13 26-07-2018 Heard learned counsel for the petitioner; Union of India; Accountant General; respondent no. 7 (Central Institute of Indian Languages) and Khuda Bakhsh Oriental Public Library, Patna.

2. Pursuant to the previous order, a counter affidavit has also been filed on behalf of respondent no. 7.

3. The controversy is confined in a very narrow compass. The petitioner has sought counting of his period of service from 31.08.1974 to 14.12.1979 for the purposes of



determining his retiral benefits.

4. The petitioner was appointed in temporary capacity as Urdu Scribe in Urdu Teaching and Research Centre, Solan, Himachal Pradesh, which is a regional centre of the Central Institute of Indian Languages, Mysore. While in service, he applied for the position of custodian in Khuda Bakhsh Oriental Public Library, Patna, through proper channel which was also forwarded by the Central Institute of Indian Languages. Thereafter, he was relieved from his post at Solan on 10.12.1979 and joined Khuda Bakhsh Oriental Public Library, Patna, on 15.12.1979. The period he worked at Solan is now being prayed to be taken into consideration for counting his total length of service. The petitioner superannuated on 28.02.2009.

5. Learned counsel for the petitioner submitted that as he was under the employment of a Central Undertaking, i.e., the Central Institute of Indian Languages and came into service in another Central Institution, i.e., Khuda Bakhsh Oriental Public Library, Patna, the period to be reckoned for pensionary benefits should be in continuity right from 31.08.1974. Learned counsel further submitted that after him joining the Khuda Bakhsh Oriental Public Library, Patna, in the year 1979 the Government of India in the Ministry of Home Affairs, Department of



Personnel and Administrative Reforms, came out with Office Memorandum No. 28/10/84-Pension Unit, dated 29th August, 1984, which gave the benefit of continuity in service to persons who had moved between Central Government Departments and Autonomous Bodies for the purposes of counting their service for pension. It was submitted that this Memorandum provided for taking the entire service period for the purposes of counting for pension and both the institutions under which the petitioner worked being Autonomous Bodies under the Central Government, he is required to be given such benefit.

6. Learned counsel for the respondents have filed their respective affidavits. Though, as a matter of principle, it has not been denied that even in cases where an employee has joined from one Autonomous Body to another Autonomous Body, under the Central Government, even prior to the issuance of Office Memorandum dated 29th August, 1984, shall be covered under it, including the petitioner; but only if he satisfies the conditions mentioned therein. It was submitted that in the very first paragraph it is categorically indicated that no such benefit is allowed to temporary employees going over to autonomous body or undertaking. Learned counsel submitted that it is not in dispute that the entire tenure of the petitioner at Solan was in



temporary capacity. Thus, it was contended that the petitioner not being covered under the Office Memorandum dated 29th August, 1984, no such relief can be claimed by him for counting his entire service period.

7. Having considered the facts and circumstances of the case and submissions of the learned counsel for the parties, the Court does not find any ground to interfere. Pensionary benefits are completely statutory in nature and the policy of giving benefit of past service if the person moves from one Autonomous Body to another Autonomous Body under the Central Government, for the first time was implemented in terms of Office Memorandum No. 28/10/84-Pension Unit, dated 29th August, 1984. Though the petitioner is covered under such directive in principle, but because of the nature of his service in the initial organization at Solan being temporary, he shall not be entitled to actual benefit under the said Office Memorandum. This being the position, the Court finds that the petitioner already having received the maximum amount of gratuity, only with regard to some benefit accruing to him on account of pension, no other loss has accrued to him. Moreover, at the cost of repetition, such benefit being payable only in terms of the policy of the employer, in the present case the Court finding that



the benefit of the policy adopted by the Central Government in such cases not being applicable in the case of the petitioner, the relief claimed cannot be granted.

8. For the reasons aforesaid, the writ petition stands dismissed.

(Ahsanuddin Amanullah, J)

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