Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2319 OF 2001

Shri Ram Kishore Gaur .. Petitioner
Vs.
The Chief Commissioner of Income-Tax,
Mumbai and anr. .. Respondents

Mr. Sandeep V. Marne, for the Petitioner.
None present for the Respondents.

**CORAM : SMT. V.K.TAHILRAMANI ACTING C.J.
AND M.S.KARNIK, J.**

DATE : 8th FEBRUARY, 2018

ORDER (PER M.S.KARNIK, J.) :

1. The petitioner is challenging an order dated 25/05/2000 passed by the Central Administrative Tribunal, Mumbai Bench, Mumbai in OA/956/1998. Before the Tribunal the petitioner prayed for direction to the respondents to withdraw the order dated 21/09/1998 and further direction that the services of the petitioner from 1962 be counted for the purpose of pension and gratuity as qualifying service.

Alternatively he prayed that interruption between 19/05/1970 to 21/12/1970 where the period of service is rendered under NAFED be treated as dies-non, the services rendered in the Ministry of Food and Agriculture between 1962 and 1970 be included in the qualifying services of the petitioner for the purpose of CCS (Pension) Rule 1972.

2. It is the case of the petitioner that he was appointed as LDC in the office of Pay and Accounts Officer in the Ministry of Food and Agriculture on 14/12/1961. The petitioner was made quasi-permanent on 24/08/1965. In November 1968, the petitioner was promoted as UDC. On 13/05/1970, the petitioner received offer of appointment from the National Agriculture Marketing Federation Limited (for short 'NAMFED'). The petitioner submitted technical resignation on 18/05/1970 which was accepted by Pay and Accounts Officer. The petitioner joined NAMFED from 19/05/1970. The petitioner thereafter joined the Ministry of External Affairs as A Hindi Translator and hence, he resigned from NAMFED. It is petitioner's case that

respondents have calculated his services as qualifying services from 22/12/1970 to the date of superannuation i.e. 30/04/1998. Learned Counsel for the petitioner contends that the services from 14/02/1961 upto 21/12/1970 when he had worked in the Pay & Accounts Office and also the period from 19/05/1970 to 21/12/1970 when he had worked as an Assistant in NAMFED should be counted for the purpose of qualifying services.

3. We find that there is no entry in the service book relating to the period of petitioner's service between 1962-1970. The petitioner has placed reliance on document dated 24/08/1962 at Exhibit 'A' which is the order of appointment. In the said order, it is mentioned that the petitioner worked as LDC and has been in continuous government service for more than 3 years. It is further mentioned that the petitioner is appointed as LDC in quasi-permanent capacity with effect from 01/07/1965. Apart from this document, there is absolutely nothing on record to indicate that the petitioner was in service of Pay and Accounts

department from 14/12/1961 upto 18/05/1970. Even there is nothing on record to show that the resignation submitted on 18/05/1970 was a technical resignation to enable the petitioner to join services of NAMFED. Rule 26(1) of CCS Pension Rules, 1972 provides that resignation from a service or a post, unless it is allowed to be withdrawn in the public interest by the appointing authority entails forfeiture of past service. Rule 27 of CCS Pension Rules, 1972 being Rules which deals with effect of interruption in service and that effect is “an interruption in the service of a Government servant entails forfeiture of his past service”. The Tribunal has observed that the petitioner's case is not covered by any exceptions. In this view of the matter, it is not possible for us to hold the Tribunal's view as erroneous. We find present Writ Petition is devoid of any merits. Writ Petition is therefore dismissed. Rule is discharged with no order as to costs.

(M.S.KARNIK, J.) **(ACTING CHIEF JUSTICE)**