

**W.P.C.T. 37 of 2021
(Via Video Conference)**

**Anupam Biswas
Vs.
The Union of India & Ors.**

Mr. Bharat Bhusan ... For the petitioner.

Mr. Alok Kumar Banerjee,
Mr. Santosh Kumar Pandey
 ... For the respondent no. 1.

Mr. Sarwar Jahan,
Mr. Dhruba Mukherjee For the respondent no. 8.

Mr. Rabindranath Pal For the respondent
 BSNL.

The writ petitioner is aggrieved by the order passed by the learned Central Administrative Tribunal on 21st January, 2020 in connection with an application filed by the writ petitioner praying inter alia for a direction upon the respondent authorities to grant pro-rata pension.

The petitioner approached the Tribunal in view of the decision taken by the under Secretary S.R., Government of India, Department of Telecommunication dated 10th May, 2010 by which it was observed that since the writ petitioner had quasi-permanent status, his lien has to be treated as terminated on 19th August, 1997 and as such, the service rendered by Sri Biswas in the Government of India falls short of ten years by three months and thus as per rule he will not be eligible to receive pro-rata pension but is eligible to receive terminal benefits in terms of (5)(b)(1) of Appendix 7 and G.I.D. (3) below Rule 2 of Swami Pension Compilation (corrected upto 2007).

The contention of the writ petitioner before the learned Tribunal as well as before us is that the

Communication Accounts Officer prepared a calculation sheet of pro-rata Government pension of the writ petitioner as because the Assistant Engineer Overseas Communication Service (OCS Mumbai) showing that he had acquired net qualifying service of ten years three months fourteen days and this has been accepted subsequently on 13th August, 2009 by which his pension was sanctioned. However, surprisingly on 10th May, 2010, his earlier pension order of 6th May, 2008 was recalled on specious plea of shortfall in qualifying service.

Our attention has been drawn to the Government Circular dated 24th March, 2008, which reads as follows :-

**“No.31-7/96-OC
Ministry of Communication & IT,
Department of Telecommunication,
(SU Cell)
dated; 24-03-2008**

Sub: Retirement benefits Deputation to Public Sector Undertaking (PSU)/Central Autonomous Body (CAB).

It has been decided by Government in consultation with DOP & PW that the deputation period to CAB/PSU (until the date of absorption of Govt. Servant to CAB/PSU) would be treated as service under Govt. for the purpose to determination of retirement benefit to the employees.

It is, therefore, again re-iterated that combination of deputation period to CAB/PSU and the period of services in the Govt. Department should exceed 10 years for retirement benefits irrespective of whether the deputation of the employees was carried out on own volition or in public interest.

This is issued with the approval of Competent Authority.

(RAM SAJIVAN),
ADG (SU-III)
Room no. 1410, Ssanchar Bhawan,
New Delhi – 110117,
Ph; 23036942, 23712037.”

Mr. Bhusan, learned Counsel appearing on behalf of the writ petitioner has strenuously argued that the petitioner was functioning in the Department of Telecommunication and it would be harsh to deny such benefit by not treating the service he rendered both in the parent organization and the organization that he had served after he resigned on 30th July, 1976 and to treat his service in the parent organization as on deputation so as to extend the benefit of the circular dated 24th March, 2008.

Although we are not convinced with the argument that the service of the writ petitioner in the parent organization was on deputation and upon resignation he joined the new establishment which incidentally is part of the department of telecommunication, we are inclined to hold that the deficit of three months to deny the pensionary benefits would be harsh and accordingly we feel that in the facts and circumstances of this case as observed by the learned Central Administrative Tribunal the respondent authority should consider his case for grant pension and other retirement benefits in terms of paragraph 6 of the impugned order.

On such consideration, we do not find any reason to interfere with the order passed by the learned Tribunal. However, by reason of the pendency of the writ petition before us, time to comply with the direction in paragraph 6 of the impugned order is extended by two months from date.

The Secretary, respondent no. 2 shall refer the matter to the competent authority to reconsider the case of the writ

petitioner in terms of the observations made by the learned Central Administrative Tribunal as well as by this Court within two months.

The writ petition stands disposed of with the aforesaid order.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Hiranmay Bhattacharyya, J.)

(Soumen Sen, J.)