

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P. (C.) No.5/2010**

% **Date of Decision: 27.01.2010**

Union of India Petitioner
Through Mr. H.K.Gangwani, Advocate

Versus

Shri Kultar Chand Rana Respondent
Through Mr.Amit Gaurav, Advocate.

CORAM:

HON'BLE MR. JUSTICE ANIL KUMAR

HON'BLE MR. JUSTICE MOOL CHAND GARG

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| 1. | <i>Whether reporters of Local papers may be allowed to see the judgment?</i> | YES |
| 2. | <i>To be referred to the reporter or not?</i> | NO |
| 3. | <i>Whether the judgment should be reported in the Digest?</i> | NO |

ANIL KUMAR, J.

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The petitioner, Union of India through Secretary (Power), Ministry of Power and Ors challenges the order dated 21st April, 2009 passed by the Central Administrative Tribunal, Principal Bench, New Delhi in O.A No.1442/2008 titled Sh.Kultar Chand Rana v. Union of India and ors partly allowing the prayer of the respondent to grant pro-rata pension to him on his work charged benefits with arrears.

The respondent was appointed as wireless operator on whole time employment service in erstwhile NREB (Northern Regional Power Committee) and was performing monitoring and co-ordination for

maintenance of uninterrupted electric supply to Northern Region of India. The respondent continued as such on monthly basis till his absorption in regular employment when he was appointed with effect from 5th September, 1986 and his pay was fixed in the revised scale with effect from 1st January, 1986.

Pursuant to the decision to transfer five Regional Load Dispatch Centres to the Power Grid Corporation of India Ltd, NRLDC, New Delhi was transferred to Power Grid Corporation of India Ltd with effect from 31st December, 1995 and the personnel posted in RLDCs were absorbed with effect from the actual date of transfer of the respective RLDCs. The respondent was transferred from NRLDC (NREB) to Power Grid Corporation of India on 31st December, 1995 and an option was obtained from the respondent for pensionary benefits available to him under the Central Government Rules in force at the time of his retirement.

The respondent superannuated with effect from 30th April, 2007 and requested for release of pension and service gratuity which were denied to him on the ground that his services prior to his absorption were not computable for the purpose of ascertaining his entitlement for the pensionary benefit.

The Tribunal has relied on Union of India v. O.P.Sharma, 2002 (1)

CLR 1088 where a Division Bench had held that for claiming pro-rata pension it is nowhere stated that an employee should have rendered ten years of service as a permanent employee. In O.P.Sharma (supra) respondent No.1 had joined CPWD on 8th November, 1947 and had rendered approximately 14 years of service before his absorption in ONGC and he was declared quasi permanent with effect from 1st February, 1951. The Division Bench had also referred to DOPT's O.M dated 21st April, 1972 and had held that the rule does not distinguish between the Government servant absorbed in public interest and on his own application.

The learned counsel for the petitioner has not disputed that if the previous service of the respondent is taken into consideration, his service on attaining superannuation would be more than 10 years and he would be entitled for pro-rata pension. The respondent was transferred from NRLDC to Power Grid Corporation of India Ltd on permanent absorption basis and an option of the respondent for pensionary benefits available to him under the Central Government Pension scheme was also obtained. In the circumstances, the petitioners are not entitled to contend that the service prior to absorption is not to be taken into consideration for computing his service pension. The Petitioners therefore, cannot contend that the respondent did not have more than 10 years of service on superannuating. Consequently the respondent is entitled for pro-rata

pension on his attaining the age of superannuation and the judgment of the Tribunal cannot be faulted in the facts and circumstances. There are no grounds to interfere with the order of the Central Administrative Tribunal dated 21st April, 2009 in O.A No.1442/2008 and order dated 20th November, 2009 in C.P No.373/2009. The writ petition is without any merit and it is, therefore, dismissed.

ANIL KUMAR, J.

JANUARY 27, 2010

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MOOL CHAND GARG, J.