

ORISSA ADMINISTRATIVE TRIBUNAL,
BHUBANESWAR.

CORAM: Hon'ble Smt. C.Narayanaswamy, Vice Chairman
Hon'ble Sri P.C.Patra, Member (Judicial)

Original application No.2439/1995

Decided on 8th February 1999.

Pravat Kumar Mishra ... Applicant

versus

1. State of Orissa represented through the Secretary, Panchayati Raj Department, Bhubaneswar.
2. Collector, Puri
Collector, Khurea

... Respondents.

APPEARANCES
For the Applicant

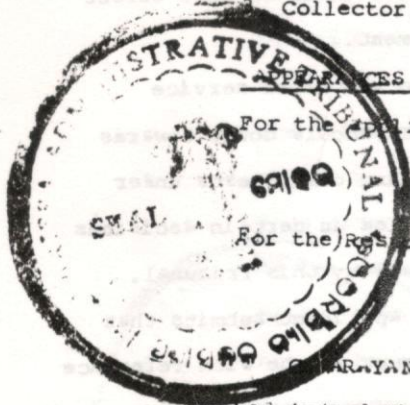
... M/s M.Pratap
S.Prahan
B.C.Mohanty
(Advocates)

For the Respondents.

... Mr. P.K.Samantaray,
Standing Counsel.

ORDER

MR. NARAYANASWAMY, VICE CHAIRMAN. - The applicant has joined the Indian Air Force on 7.10.1969 and on release from the Air Force on 31.10.1984 he was appointed as a V.L.W. which post he joined on 5.4.1986. He has fought in Indo - Pakistan war in 1971, i.e. from 3.12.1971 to 16.12.1971. In the original application referring to P & S Department circular issued on 2.5.1963, followed by further circulars for counting approved military service by ex-Defence personnel who joined the posts under the State Government, he has claimed that the entire service rendered by him in the



70)

6.0

...2..

Air Force from 7.10.1969 to 31.10.1984 should be counted towards seniority and other service benefits. In other words, he has prayed for being treated as a recruit of 1969 and for granting him 15 increments with consequential benefits.

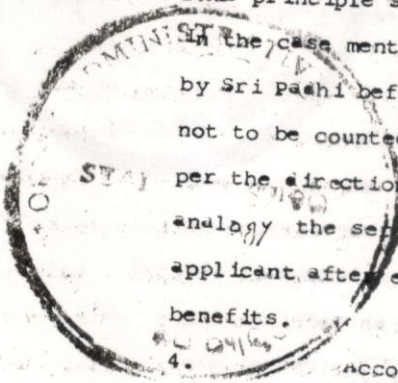
2. In the counter filed by the Collector (O.P.No.2) he has taken a stand that it is not within his power to extend such benefits to the applicant unless a special order to that effect is issued by the Government.

3. The extent up to which the service rendered in Defence Forces should count towards service benefits on joining civil posts under Government has been settled in certain decisions both by the Apex Court and by this Tribunal. Bearer counsel for the applicant submits that decisions of the Apex Court may be with reference to the instructions issued by the States concerned, which may not be the same as the instructions

issued by Government of Orissa. Accepting this ^{in the} ^{take of} argument the issue has been settled by this very Tribunal in T.A.110/1988 (Bhaskar Pahi vrs. State of Orissa and others). Sri Pahi had joined the Indian Navy on 1.4.1957 and was released on 31.3.1967 and was appointed to Orissa Military Police where he joined on 1.4.1967. On his joining Orissa Military Police he represented for concessions regarding seniority, initial pay

59
69

and pension by counting his past service.
 His prayer was rejected by the State Government
 on the ground that since he was already in
 Defence service before issue of the first circular
 of P & S Department in 1963 when the emergency was
 declared following Chinese aggression, he was
 not entitled to any concession. The Tribunal,
 however, took a different view and held that such
 decision was arbitrary and discriminatory. The
 Tribunal directed that the service rendered
 by Sri Pashi from 26.10.1962 to 31.3.1967 when
 there was emergency on account of Chinese war
 and later on account of first Indo-pakistan war,
 should be counted for his service benefits.
 This principle should apply in this case also.



In the case mentioned above the service rendered
 by Sri Pashi before declaration of emergency was
 not to be counted towards service benefits as
 per the direction of the Tribunal. On the same
 analogy the service rendered by the present
 applicant after emergency would not count towards service
 benefits.

4. Accordingly, we dispose of this O.A.
 with a direction that service rendered by the
 applicant in the Indian Air Force during the
 period of emergency on account of second Indo-pak
 war shall count towards service benefits. No costs.

TRUE COPY

Deputy Registrar agree
 - Sd/-
 (P.C. Kulkarni)
 MEMBER (JUDICIAL)

- Sd/-
 (C. NARAYANASWAMI)
 VICE CHAIRMAN