

R. K. Gupta

Vs

Union of India and Others

Writ Petition No. 659 of 1986

(E. S. Venkataramiah, S. Ranganathan JJ)

09.10.1987

ORDER

1. The petitioner retired from service as Regional Director of the Employees' State Insurance Corporation, Haryana on June 30, 1984. He joined the service of the Employees' State Insurance Corporation on December 13, 1960. The question of pension payable to the petitioner was settled by the Employees' State Insurance Corporation by treating the period of actual service rendered by him in the Corporation as the qualifying service for pension. Before the petitioner joined the service of the Employees' State Insurance Corporation he was working as an official in the Ministry of Rehabilitation, Government of India from January 18, 1955 to December 12, 1960. Prior to January 18, 1955 the petitioner was working as official from February 16, 1950 to January 17, 1955 in the Custodian's Department of the State of Uttar Pradesh.

2. In this petition the petitioner has prayed for the issue of writ in the nature of mandamus to the respondents directing them to treat the period of service rendered by him in the Ministry of Rehabilitation, Government of India between January 18, 1955 and December 12, 1960 and in the State of Uttar Pradesh from February 16, 1950 to January 17, 1955 as qualifying service and to enhance the pensionary benefits due to him on that basis.

3. As regards the period of service rendered by the petitioner under the Central Government, there can no longer be any dispute in view of the decision of this Court in R. L. Marwaha v. Union of India ((1987) 4 SCC 31) decided on August 12, 1987 in which this Court has held that such service should be counted as part of the qualifying service for purpose of retirement benefits.

4. The petitioner relies upon circular, bearing No. 38017(9) - Admn. SW-80 dated January 15, 1981 of the Ministry of Supply and Rehabilitation, Government of India and contends that the service rendered by him in the Custodian's Department of Uttar Pradesh should also be counted as part of the qualifying service. As regards this claim of the petitioner we do not have all the facts on record. This question has to be examined by the authority concerned in the light of the necessary material which may be placed before it by the petitioner.

5. We, therefore, direct the respondents to count the period of service rendered by the petitioner under the Government of India as part of the qualifying service for the purpose of pension. We also direct the respondents to examine whether the petitioner is entitled to the benefit of the circular issued by the Ministry of Supply and Rehabilitation, referred to above, and if he is found to be entitled to the benefit of the service rendered by him in the State of Uttar Pradesh under the said circular to grant him the benefit of the said circular also. The pension payable to the petitioner shall be revised in accordance with the above direction within four months from today.

6. The writ petition is disposed of accordingly. No costs.

</html