

Central Administrative Tribunal  
Principal Bench

O.A.No.808/2002

Hon'ble Shri Shanker Raju, Member(J)

New Delhi, this the 7th day of November, 2002

Smt. Bhagwani  
wd/o Late Sh. Kanhiya Lal  
r/o Vill. & PO Samaspur Khalasa  
New Delhi - 73.

.. Applicant

(By Advocate: Sh. Yogesh Sharma)

Vs.

1. NCT of Delhi through  
The Chief Secretary  
New Sectt.  
New Delhi.
2. The Chief Engineer  
Dept. of I & F  
NCT of Delhi  
4th Floor  
ISBT Building  
Delhi.
3. The Executive Engineer  
Civil Division No.XIII,  
Govt. of Delhi  
Basaiderapur Office Complex  
Delhi - 27. .... Respondents

(By Advocate: Sh. George Paracken)

O R D E R (Oral)

By Shri Shanker Raju, M(J):

This OA is contested by the legal heirs of deceased Baildar, who died in harness on 30.3.1998, for seeking accord of family pension w.e.f. 1.2.1995 along with all consequential benefits.

2. It is not disputed that deceased Baildar was working in the office of respondents. Earlier he was on casual basis since 1970 but later on in the light of the decision of OA No.1056/1995 was regularised with retrospective effect w.e.f. 1.6.1989.

8

3. Husband of applicant superannuated on 30.1.1995 and at that time he had six years of regular service and 20 years of service on casual basis.

4. Learned counsel for applicant contends that as per Government of India's instructions contained in OM dated 14.5.1968, under Rule 14 of the CCS (Pension) Rules, 1972 for the purposes of computing qualifying service for pension, the service fit for absorption in regular employment without any break should be counted towards pension. In this conspectus, it is stated that as the applicant was paid from contingency fund and his casual service was regularised without break, his service is to be computed towards pension.

5. Learned counsel for applicant places reliance on the following decisions where half of the service on casual basis was ordered to be treated as qualifying service for purposes of pension.:

1. Smt. Gayabhai Gangaram and Ors. v. Union of India & Ors, 1999(2) ATJ 578.
2. M.K.Ramchandran v. Union of India & Ors. 1994(1) ATJ 156.
3. B.R.Jadhav v. Union of India & Ors. 1996(2) ATJ 112.

6. Further it is stated that although the Co-ordinate Bench of this Court in Randhir v. NCT of Delhi & Others, OA 2161/2000 dated 6.9.2001 accorded the same relief to the similarly circumstance but on appeal, the High Court of Delhi in CWP No.7591/2001 decided on 14.2.2001 though did not interfere with the order but observed that the same would not constitute any precedent. In this background, it is stated that

he is not relying on this decision and his relief is to be accorded independently on the decision of the statutory Rule 14 of the CCS (Pension) Rules ibid which are binding on the respondents.

7. Respondents' counsel Shri George Paracken vehemently opposed the contentions and stated that as applicant had worked on casual basis on muster roll and not against any sanctioned post or regular work, his qualifying service is to be computed w.e.f. 1.6.1989 as he was appointed on regular basis as Baildar and having retired on 30.1.1995 and died on 30.3.1998, he could not qualify the service of 10 years as such the decision both in the Yaswant Hari Katarkar v. Union of India & Ors and Randhir v. NCT of Delhi & Others would not apply to his case.

8. I have carefully considered the rival contentions of the parties and perused the material on record. At the outset, I am bound by the decision of the High Court of Delhi as such Randhir's case would not to be treated as precedent. However, I find that applicant right from 1970 till 1989, had worked on casual basis and is paid from the contingent fund and was regularised in 1989 without any break. Accordingly his case is squarely covered by the Government of India's decision contained in OM dated 14.5.1968 and the service rendered is to be reckoned as qualifying service and in view of the decisions referred to above by the applicant the same, in all four, covered the case. Accordingly, half of the service rendered on casual basis is to be computed as qualifying service for pension.

9. In the result, OA is allowed. Respondents are directed to count half of the <sup>Casual</sup> <sub>in</sub> service of the deceased Baildar towards qualifying service for pension and accordingly they are directed to work out pensionary benefits and the same may be disbursed to the applicant with all consequential benefits within three months from the date of receipt of a copy of this order. No costs.

S. Raju  
(Shanker Raju)  
Member(J)

/rao/