

**Central Administrative Tribunal
Hyderabad Bench**

OA No.020/4/2017



Hyderabad, this the 27th day of February, 2020

Hon'ble Mr. B. V. Sudhakar, Member (A)

K. Sudhakar S/o Late Gurumurthy
Aged about 52 years, working as Helper (PF No.II 060179)
Special Revenue Maintenance, S&T, South Central Railway
Guntakal Division, Guntakal, Ananthapur District. .. Applicant

(By Advocate: Mrs. Rachna Kumari)

Vs.

1. Union of India, Rep. by The General Manager
South Central Railway, Rail Nilayam
Secunderabad – 500 071.
2. The Chief Personnel Officer
South Central Railway, Rail Nilayam
Secunderabad.
3. The Divisional Railway Manager
South Central Railway
Guntakal Division, Guntakal.
4. The Divisional Personnel Officer
South Central Railway, Guntakal Division
Guntakal, Ananthapur District. Respondent(s)

(By Advocate: Mrs. C. Vijaya Laxmi proxy of Mr. T. Hanumantha Reddy,
Sr. PC for Railways)

ORDER (Oral)

2. The OA has been filed deprecating the inaction of the respondents to consider the case of the applicant for counting 50% of the casual service, and also the service rendered on attaining temporary status as qualifying service for computing pension and family pension.

3. Brief facts of the case are that the applicant joined as Casual Labour in South Central Railway Employees Mutually Aided Consumers Cooperative Society Ltd. on 18.07.1988. Thereafter he was absorbed as Junior Track Man on 11.10.2006. The applicant states that his service from 18.07.1988 to 11.10.2006, coming to around 18 years, has to be counted for the purpose of qualifying service to the extent of 50% of the said service for computing pension and pensionary benefits. The applicant also claims that he is entitled to be brought under Old Pension Scheme as per the Judgement of Hon'ble High Court of Punjab and Haryana. Keeping the above in view, the applicant approached the respondents in respect of grant of pension and pensionary benefits but there being inaction on the part of the respondents, to grant the relief sought, OA has been filed.

4. The contentions of the applicant are that his case is covered by the Judgement of the Hon'ble High Court of Andhra Pradesh in WP No.24867/1999 and also that of the Division Bench of the Hon'ble High



Court in the said matter. Further, the applicant has to be brought under Old Pension Scheme as per the verdict of Hon'ble High Court of Punjab and Haryana in the case of **Harbans Lal v. State of Punjab and Others.**



5. Respondents have filed the reply statement wherein they have stated that a person engaged as Casual Labour in Railways by the Railway Administration will be granted temporary status and scale on completion of 120 days continuous service. Applicant was not engaged by the Railway Administration and thus counting of 50% of his past service put up in the Railway Cooperative Stores does not arise.

6. Heard both the counsel and perused the pleadings on record.

7. (I) A similar issue fell for consideration before this Tribunal in OA Nos.526 of 2017 and 527 of 2017 wherein after detailed discussion in OA 526/2017, it was held as under:

“7 In this regard, the Hon'ble Supreme Court has categorically observed in Union of India (Railway Board) & Others Vs. J.V. Subbaiah & Others, reported in 1996 (2) SCC 258 in para 22 as under:

“22. We, therefore, have no hesitation to hold that the officers, employees and servants appointed by the Railway Cooperative Stores/ Societies cannot be treated on a par with Railway Servants under paragraph 10-B of the Railway Establishment Code nor can they be given parity of status, promotions, scales of pay, increments etc. as ordered by the CAT, Hyderabad Bench.”



Besides, the judgment of the Hon'ble High Court of Andhra Pradesh supra is not relevant to the present case, since the applicant is not on the rolls of the Railways to make the claim in question. Thus, as seen from the Rules and also facts, the applicant cannot come under the ambit of being called as a Railway employee. Therefore, the question of considering the casual labour/ temporary status rendered by him while working in the Cooperative Stores for the purpose of pension and pensionary benefits would not arise in view of the observations of the Hon'ble Supreme Court cited supra. Hence, we do not find any ground to interfere on behalf of the applicant. Therefore, the OA is dismissed."

The learned counsel for the applicant has submitted that the Judgements in the cited OA have been challenged before the Hon'ble High Court of Andhra Pradesh in Writ Petition No.3672 of 2020.

(II) In view of the above developments, the OA is disposed of directing the applicant to seek appropriate remedies from the respondents based on the outcome of the decision of the Hon'ble High Court of Andhra Pradesh in the said Writ Petition referred to.

With the above direction, the OA is disposed of with no order as to costs.

(B. V. Sudhakar)
Member (A)

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