

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/020/00442/2014

HYDERABAD, this the 2nd day of December, 2019

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman

Hon'ble Mr. B.V. Sudhakar, Admn. Member

G PENCHALAIAH,
S/o G Chinnaiah,
Aged about 62 years,
Occ: Safaiwala (Retd.),
R/o Patha Bitra Gunta (Village & Post Office),
Bogulu Mandal, S.P.S.R.Nellore District.

... **Applicant**

(By advocate: Mr. N.Ramesh)

Vs.



1. Union of India rep. by its Secretary, Ministry of Railways, Government of India, New Delhi,
2. The General Manager, South Central Railway, Secunderabad,
3. The Divisional Railway Manager, Vijayawada, Krishna District,
4. The Senior Depot Manager, South Central Railway, Secunderabad.

Respondents

(By advocate: Mr. M.Venkateswarlu, SC for Railways)

ORAL ORDER

PER HON'BLE Mr. JUSTICE L.NARASIMHA REDDY, CHAIRMAN

Applicant was appointed as Gangman in Vijayawada Division of South Central Railway in the year 1981. He fell sick with effect from 27.02.1995 and was sanctioned 180 days Extraordinary Leave (EOL). In the medical test, he was graded B-1 and assigned the duty of Sweeper in the medical department. He did not join and accordingly he was discharged from service on completion of EOL period. Challenging the same, he filed OA 607/1997 before this Tribunal. That OA was disposed of directing respondents to conduct another medical test. On the basis of the test so conducted, applicant was appointed as Safaiwala in the alternative job, through letter dated 06.03.1998. The period between the date of discharge and the date of such appointment, was treated as dies-non. Applicant re-joined the post of Safaiwala on 10.03.1998 and retired from service on 31.05.2012.

2. This OA was filed with a prayer to direct respondents to treat the period between 27.02.1995 and 10.03.1998 as qualifying service for the purpose of pension and other pensionary benefits. Applicant contends that though he was discharged from service, he has been appointed in the alteranative job and the interregnum period has to be treated as qualifying service for the purpose of pension and other pensionary benefits.

3. Respondents have filed counter affidavit. It is stated that the applicant accepted the condition imposed in the order dated 06.03.1998 and he cannot challenge that condition at this length of time. The various contentions raised by the applicant are denied.





4. When the case was called, there was no representation for the applicant. Since this is one of the oldest cases, we have perused the record as provided under Rule 15 of Central Administrative Tribunal (Procedure) Rules, 1987.

5. Heard Mr. M.Venkateswarlu, learned standing counsel for respondents and perused the entire record.

6. It is not in dispute that applicant was discharged from service on 03.01.1996. When he filed OA 607/1997, it appears that the order of discharge was not set aside and the direction issued therein was only to conduct another screening test. That was complied with, and as a result thereof, applicant was offered the alternative job as Safaiwala, through letter dated 06.03.1998. Applicant joined the alternative post of Safaiwala on 10.03.1998. One of the conditions imposed therein was that, the period between 03.1.1996 and 09.03.1998 shall be treated as dies-non. If the applicant had any objection about that condition, he was supposed to seek remedies at that time itself. Till he retired from service in the year 2012, he did not raise objection whatsoever. It is only 16 years after the order dated 06.03.1998 was passed, that he filed this OA. When the leave was not granted, he filed OA 607/1997 and he did not raise objection at the time of accepting alternative appointment. He cannot raise this plea at this point of time, that too after his retirement.

7. We do not find merit in the OA and accordingly dismiss the same.

8. There shall be no order as to costs.

(B V SUDHAKAR)
MEMBER (A)

(JUSTICE L.NARASIMHA REDDY)
CHAIRMAN

vsn

