

Central Adminisrative Tribunal
Principal Bench, New Delhi

O.A.No.2453/2001

(A)

Hon'ble Shri Shanker Raju, Member(J)

Friday, the 12th day of July, 2002

Palley
s/o Shri Bengali
Ex. Safaiwala
under Chief Health Inspector
Northern Railway
New Delhi.
r/o A1/341, Sultanpuri
New Delhi - 41. Applicant

(By Advocate: Shri M.L.Sharma)

Vs.

Union of India through

1. General Manager
Northern Railway
Headquarters Office
Baroda House
New Delhi.
2. Divisional Rail Manager
Northern Railway
New Delhi. Respondents

(By Advocate: Shri V.S.Krishna)

O R D E R (Oral)

By Shanker Raju, M(J):

Heard.

2. Applicant, in this OA, seeks pension on the strength of having worked with the respondents and having a qualifying service of more than 10 years. Applicant impugns the action of the respondents whereby he has been deprived of his pension on the ground that he is yet to complete 10 years qualifying service.

3. Applicant earlier approached this Court in OA 1559/97 and by an order dated 5.3.1998, directions have been issued to the respondents to treat the

applicant as regular employee from the same date when his junior was regularised in the screening test held in the year 1995 and to work out his retirement benefits. On filing CP 25/99 in OA 1559/97, by an order dated 10.11.1999, applicant was given liberty to assail his grievance in appropriate proceedings in accordance with law regarding his claim for payment of pension and interest.

4. Shri M.L.Sharma, learned counsel for applicant stated that as per the Circular of the Railway Board dated 14.10.1980 the period rendered by a casual labour on attainment of temporary status after completion of 120 days' continuous service, half of the service is to be reckoned as qualifying service for grant of pensionary benefits. In this background, it is stated that the applicant was engaged as casual labour on 1.8.1979 and having attained the temporary status on 30.11.1979, in case half of the period from 1979 to 1984 should have also been reckoned as qualifying service, which would have brought the qualifying service as more than 10 years, entitled him pension.

5. Shri M.L.Sharma annexed several documents to indicate that he has been engaged as Safaiwala in the year 1979, 1982 and 1984 that he had been worked as casual labour during this period as well.

6. On the other hand, Shri V.S.R.Krishna, learned counsel for respondents in their reply by referring to the pleadings in this OA where the applicant has referred to grant of temporary status to

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him w.e.f. 2.6.1984 and his representation where he has stated that he was appointed as Casual Safaiwala 1.5.1984, has stated that the applicant had never worked on casual basis prior to 1984 as well.

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7. It is further stated by Shri Krishna that in compliance of the directions of the Court in OA 1559/1997 entitlement dues have been paid to the applicant. In so far as pension is concerned, having worked on casual basis w.e.f. 5.6.1984 to 7.1.1988 and period from 7.1.1988 to 11.8.1995, calculated as per the Circular of 1980 supra, comes to less than 10 years. As the applicant has failed to put 10 years qualifying service, he is not entitled for the pension.

8. I have carefully considered the rival contentions of both the parties and perused the material on record. It is not controverted that the applicant has been accorded an opportunity to approach this Court for his pensionary benefits. In this OA and in rejoinder, the applicant has also annexed several documents to indicate that he had worked from 1979 and his work was appreciated in 1981 and 1982.

9. In this view of the matter, the issue of pensionary benefits of the applicant, which is a right of the applicant, to accord an opportunity to make a detailed representation to the respondents regarding his grievance along with corroborated evidence to prove that he had worked from 1979 to 1984 within one month from the date of receipt of a copy of this order. Thereafter, the representation shall be

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considered by the respondents strictly in accordance with the rules and instructions and in the light of the Railway Board's circular dated 14.10.1980 and thereafter to pass a detailed and speaking order within three months from the date of receipt a copy of the representation from the applicant. In case the applicant is found due for his temporary status and pension, the same may be accorded to him in accordance with law. However, the issue regarding interest on delayed payments, if any, is left open. The OA is disposed of accordingly. No costs.

S.Raju

(Shanker Raju)
Member (J)

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