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Central Administrative Tribunal
Principal Bench

O.A. No. 660 of 2001

New Delhi, dated this the 11 April, 2002.

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE MR. SHANKER RAJU, MEMBER (J)

Shri Harak Singh,
S/o Shri Ganga Singh,
C/o Shri Padma Dutt Upadhyay,
Hanuman Nagar, Line Par,
Moradabad ... Applicant.
(By Advocate: Shri Surinder Singh)

Vs.

1. The General Manager,
Northern Railway Headquarter,
Baroda House,
New Delhi.
2. The Divisional Manager,
Moradabad (UP).
3. Deputy Chief Engineer,
Northern Railway,
Bridge Line Office,
Lajpat Nagar-I,
New Delhi-110024.

(By Advocate: Shri Rajinder Khatter)

ORDER

S.R. ADIGE, VC (A)

In this OA applicant seeks:

- i) quashing and setting aside of Railway Board's letter which postulates counting of only half of the service rendered as casual labour;
- ii) a direction to respondents to count entire service rendered as a casual labour on completion of 180 days for purpose of pensionary benefits;
- iii) any other or further relief as deems fit and proper.

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(2)

(b)

2. During hearing, the only prayer pressed by applicant's counsel was that applicant should be granted temporary status as casual labourer w.e.f. 21.1.67 on completion of 180 days service and consequential benefits, and not w.e.f 27.7.72 when he was actually granted temporary status.

3. Admitedly applicant was appointed on 29.7.66 in Northern Railway as a casual labour on daily wages basis. Respondents also admit in their reply to the OA that applicant completed 180 days continuous service on 20.1.67 and was eligible to be given temporary status from 21.1.67. They however contended that due to non continuation of any work in the bridge department at that time, he could not be given his regularisation on temporary basis from the date as claimed by him in the OA. It is also contended that due to non-availability of a specific post he could not be granted temporary status from an earliar date in the Railways.

4. No order passed by respondents has been shown to us disengaging applicant from respondents' service merely because of non-continuation of work in Bridge Department. Furthermore, no rule or instruction has been shown to us making the granting of temporary status upon rendering of 180 days continuous service, contingent upon the availability of a post. Indeed DoPT's OM dated 10.9.93 to the extent that it is applicable to the Indian Railways, make it clear that conferment of temporary status would be without reference to creation/availability of a regular Group D post.

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5. Respondents' counsel has also referred to the statement containing details of applicants absences (Annexure A-) but the title of that statement is "Fixation Sheet of Shri Harak Singh S/o Shri Ganga Singh after (emphasis supplied) completion of 180 days casual days." Hence those days of absences if any cannot be held against applicant to deny him temporary status upon completion of 180 days continuous service.

6. In the result this OA succeeds and is allowed to this extent that in the facts and circumstances of the present case which shall not be treated as a precedent, respondents are directed to count applicant's temporary status as casual labourers from 21.1.67, with consequential benefits. Respondents should implement these directions within three months from the date of receipt of a copy of this order. No costs.

S. Raju

(Shanker Raju)
Member (J)

Adige
(S.R. Adige)
Vice Chairman (A)

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