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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 1799/95

New Delhi this the 31st Day of March 1998

Hon'ble Shri R.K. Ahooja, Member (A)

1. Shri B.B. Lal,
Son of Late Shri Shiv Charan Dass,
Resident of Village Kandhla, Bazar Ganj,
Distt. Muzzaffar Nagar, UP
 2. Shri Vedpal Singh,
Son of Ch. Prithvi Singh,
resident of Khawage Nagla,
Distt. Meerut, UP
- Petitioners

(By Advocate: Shri Krishna Mani, Sr. Advocate with
Shri S.C. Saxena, counsel for the applicant)

-Versus-

1. Union of India,
Through
The General Manager,
Northern Railway,
Baroda House,
New Delhi.
 2. Divisional Northern Railway Manager,
DRM Office,
New Delhi.
- Respondents

(By Advocate: Shri P.S. Mahendru)

ORDER

Both the applicants herein were working in a private Company known as Saharanpur Sahadra Light Railway (hereinafter referred to as "SSLR"). Both the applicants were initially recruited as Ticket Collectors. Applicant No. 1 was later promoted as Station Master and Applicant No. 2 as TTE. The said private Company was closed on 31.8.1970. Both the applicants claim that they were thereafter appointed as fresh entrants in Northern Railway in the year 1972. Their grievance is that the respondents are ^{not} following the rules/instructions laid down in para 405(1) of the Manual of the Railway Pension Rules 1950 as the service rendered by them in SSLR has not been taken into account while fixing

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their retiral benefits. Applicant No. 1 was appointed in SSLR w.e.f. 1.12.1941 and as already mentioned at the time of closure of SSLR on 31.8.1970 he had become Station Master. He had thus put in 28 years and 9 months service with the private Company. He states that he was absorbed in Northern Railway w.e.f. 14.1.1971 as a Supervisor at Prayag Ghat (Allahabad)) and worked there upto 1.2.1971. Later on his case came up before the Screening Committee and he was selected as an Assistant Station Master. However, by its order dated 7.7.1988 in TA/827/86, this Tribunal declared him to be an Assistant Station Master w.e.f. 20.3.1971 till the date of his superannuation i.e. 31.1.1979. Thus the total service rendered by Applicant No. 1 under SSLR, Northern Railway comes to 36 years and 9 months yet the respondents have not given him pension as provided for in para 405(1) in the Manual of Railway Pension Rules, 1950.

2. In respect of applicant No. 2, facts mentioned are that he was appointed in SSLR w.e.f. 29.5.1959 and worked there till its final closure on 31.8.1970. Thus the total service rendered in SSLR comes to 11 years and 3 months. He was later absorbed in Northern Railway w.e.f. 18.6.1971 and finally retired from Government service w.e.f. 31.7.1993. Thus the total service in both SSLR and Northern Railway comes to 33 years four and one half month. His grievance is that he is getting pension only for 22 years of service and not for 33 years as he is entitled to in terms of Para 405(1) (Supra).

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3. Though applicant No. 1 retired on 31.7.1979, the present application was only filed in 11.5.1995. An application for condonation of delay has also been filed on the ground that petitioner No. 1 is an old person and hospitalised due to an accident. His son-in-law who was admitted in J.P. Pant Hospital died while in harness and applicant No. 1 was engaged in the final settlement of the accounts and in the settlement of his daughter and therefore could pay no attention to his own case of retiral benefits. Both the petitioners had filed a representation on 15.12.1993 and 10.5.1994 but no response was given to them. Hence, they seek condonation for the delay in coming before the Tribunal

4. The respondents in their reply have denied that the applicants are entitled to count their period of past service in SSLR towards the retiral benefits. They state that this was not a case of take over of a private company but a case of closure of a private company. The Government had considered the staff rendered unemployed for fresh appointment and therefore there was no liability of the Government in respect of the earlier service rendered by them the private company. The respondents have denied that the applicants are entitled to the benefits sought for under para 405(1) of the Manual of Railway Pension Rules, 1950.

5. I have heard the counsel for both the parties. In so far as the applicant No. 1 is concerned, it is seen that on being screened ^{by} the Committee and declared suitable for appointment as Assistant Station Master, he had not joined the post. Ultimately he had filed a suit No. 375/81 on 17.8.1981 for declaration that he was retained in service from 14.1.1971 to 31.1.1979 with all consequential benefits

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of wage, pensionary benefits, leave salary etc. The said suit stood transferred to the Tribunal under Section 29 of the Administrative Tribunals Act of 1985 and was styled as TA No. 827/85. In its order dated 7.7. 1988, the suit was decreed in the following terms:

"He cannot be paid any retirement benefits as he had not been formally appointed to any post under the Railways after proper medical test".

6. It is clear that applicant No. 1 having sought the relief regarding his pensionary benefits on the basis of his fresh appointment have been denied the same by the Tribunal. His present claim is therefore squarely barred by the principle of res judicata and needs no further consideration.

7. As far as applicant No. 2 is concerned, I do not also find that his case is covered by Para 405(1) of the Manual of the Railway Pension Rules, 1950 which reads as follows:

405(1) Service rendered under Private Railway Companies and quasi-Railway bodies.
- The previous service of staff of the former Private Railway Companies, as for example, ex-D.S. Railway, ex-B.L. Railway, ex-K.F. Railway and quasi-Railway bodies, such as, Station Committees, Staff Benefit Fund, ex-Cash Contractors, who were subsequently absorbed in or appointed as fresh entrants on the Indian Government/ex-Company/Ex-State Railways, rendered under the ex-Private Railway Companies or quasi-Railway bodies in question will be taken into account if it counts as service for Special Contribution to Provident Fund under the extant orders.

Such orders will generally fall into the following three broad groups:-

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- (i) previous service does not count for Special Contribution to Provident Fund (e.g. staff of Kalighat Falta Railway Company fall in its group as per Railway Board's letter No. E(G) 56 TR4/2/2 dated 12th March 1957)
- ii) previous service counts for determining the eligibility for Special Contribution to Provident Fund, but for calculating the amount of Special Contribution to Provident Fund only service on the Indian Government/ex-Company/ex-B.B. and C.I and N.W. Railways fall in this group, as per Railway Board's letter No. E(W) 56PF-1-27 dated 22nd November 1957); and
- (iii) previous service counts in full for Special Contribution to Provident Fund (e.g. staff of Tezapore Balipara Railway Company fall in this group, as per Railway Board's letter No. E51TR4/5/2 dated 9th August 1952).

The previous service of group (i) will not be taken into account at all and the whole of the previous service of group (ii) will be taken into account. As regards group (ii), the previous service will be taken into account for the purpose of determining the eligibility for pensionary benefits but for calculating the amount of the pensionary benefits, only the service actually rendered on the Indian Government/ex-Company/ex-States Railways will be taken into account.

The case of each group of such staff should be carefully examined and any doubtful cases should be referred to the Railway Board:


8. There is no contention that the previous service rendered by the applicant No. 2 counts in full for special contribution nor any order has been produced to show that service rendered in SSLR will count towards determining the eligibility for special contribution to PF Funds. In these circumstances unless an order is first issued to bring

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service in SSLR for special contribution to Provident Fund, the same service cannot be taken into account towards pension.

9. In view of the above position, I find that neither of the applicants have any case for counting their past service in SSLR towards their pensionary benefits. Accordingly the OA is dismissed. There is no order as to costs.


(R.K Ahooja)
Member (A)

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