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CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NUMBER 156 OF 2000

ALLAHABAD, THIS THE 11th DAY OF MARCH, 2003

HON'BLE MRS. MEERA CHHIBBER, MEMBER (J)

Shri Sukhari,
s/o Shri Nanku,
r/o Village. Ghoora,
P.S. Baru,
Post-Jai Govind Nagar,
Makhra, District-Aurangabad.

.....Applicant

(By Advocate : Km. Sunita Sharma - Absent)

V E R S U S

1. Union of India through Secretary
Ministry of Railway,
New Delhi.

2. The Chairman Railway Board,
Government of India, New Delhi.

3. General Manager, Eastern Railway,
Kolkata.

4. Divisional Railway Manager,
Eastern Railway,
Mughalsarai.

....Respondents

(By Advocate : Shri K.P. Singh)

O R D E R

By this O.A. applicant has sought the following
relief(s):-

- (a) issue a direction to the respondents to make the payment of the pension and other benefits with effect from 31.08.1995.
- (b) issue any other suitable order or direction as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.
- (c) award to cost of application in favour of applicant.

2. It is submitted by the applicant that applicant was engaged as Gangman on 10.04.1986 and worked on the same post till 31.08.1995. Therefore, applicant had worked his temporary status after completion of 120 days regularly and since he had completed more than 12 years in the Railways and is entitled to all the pensionary benefits. He approached the authorities time and again but no reply was given by the respondents, therefore having no other remedy, the applicant had to file this O.A. It is submitted by the applicant that right to receive pension is property under Article 31(1) of the Constitution of India.

3. Respondents have opposed the O.A. and have submitted that the relief as prayed for by the applicant is not maintainable in as much as an employee is not entitled to get pension until and unless he completes 10 years of qualifying service. Whereas in the instant case, applicant was initially engaged as Casual Labour on 10.12.1985. He attained temporary status on 09.04.1986 and was regularised as Gangman on 02.08.1992. He retired from service on 31.08.1995 and as per the rules when his services is counted, it comes to only 6 years 2 months and 17 days as qualifying service because it is only half of the period from the date of attaining Temporary Status to the date of being made permanent, which is to be counted for qualifying service plus the actual years of service put in after regularisation.

4. In the instant case, he had completed 10 years of

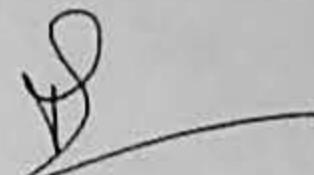
qualifying service, therefore, he is not entitled to any pension. Otherwise, they have submitted that applicant has already been paid an amount of Rs.8742/- on account of P.F; Rs.8688/- on account of DCRG ; Rs.13,166/- on account of leave encashment and Rs.395/- on account of GIS. Therefore, whatever was due to the applicant as already been paid to him and it cannot be said that any of his fundamental rights have been violated. Therefore, the O.A. being devoid of merit and may be dismissed.

5. This counter was filed by the respondents as back as on 11.07.2000 but till date applicant had not filed any rejoinder. Neither applicant nor is counsel was present therefore, I heard the counsel for the respondents by attracting Rule 15(1) of CAT Procedure Rule 1987. The dates given by the applicant and respondents are almost same the only disputes is that applicant ^{is} counting his service right from the day one of his engagement while respondents ^{have} ~~are~~ computed the period of service from the date of his regularisation till his retirement plus half of the period from the date of grant of temporary status to the date of regularisation. Since the computation is as per the Railway Boards letter and rules under the IREM. The contention of the applicant has to be rejected. Applicant has not rebutted the fact that barring the pension ~~all~~ other payments have been given to him. Since he had not completed 10 years of qualifying service, the applicant would not be ^{be} entitled

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to any pension.

6. In view of the above discussions, this O.A. is devoid of merit as such, the same is rejected. No order as to costs.


MEMBER (J)

shukla/-