

OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.**

Original Application No.623 of 2002.

ALLAHABAD THIS THE 1ST DAY OF February 2006.

HON'BLE MR. D.R. TIWARI, MEMBER-A

Bhwani Singh aged about 62 years, son of Shri Dangal,
R/o Village Barkhera, Post Jiron, P.S. Jakhlaun,
District Lalitpur.

.....Applicant.

(By Advocate: Sri R.K. Nigam)

Versus

1. Union of India through the General Manager,
Central Railway, Mumbai CST.
2. Divisional Railway Manager, Central Railway,
Jhansi.

.....Respondents.

(By Advocate : Sri Anil Kumar)

O R D E R

By this O.A., filed under section 19 of the A.T.
Act, 1985, the applicant has prayed for following
relief(s):-

"(a) To issue a writ, order or direction in the nature of certiorari quashing the impugned order dated 17.9.2001 (Annexure A-1).

(b) To issue another writ, order or direction in the nature of mandamus thereby commanding the respondents to calculate pension in favour of the petitioner as per his physical working with effect from 1.6.1959 as directed by this Hon'ble Tribunal in O.A. NO.647/1999 and give the pensionary benefits along with arrears with 18% interest for which necessary time bound direction be given".

2. This is a second round of litigation between the applicant and the respondents. Earlier applicant filed O.A. No.647/1999 which was decided by this Tribunal by its order dated 13th March 2001. The operative portion of the order of this Tribunal is as under:-

H. S.

"The O.A. is accordingly disposed of finally with the direction to the respondent NO.2 to consider the period from 1.6.1959 to 31.12.1980 regarding services rendered by the applicant and then calculate the period of service for the purposes of pension. This exercise shall be completed within four months from the date a copy of this order is filed. There will be no order as to costs".

Since the respondents did not agree to grant the pension after taking into account the applicant's service from the year 1959, the instant O.A has again been filed and the impugned order has been challenged on various grounds mentioned in para 5 of the O.A. which is as under:-

- "i) Because the humble petitioner has rendered pensionable service in Railways.
- ii) Because the humble petitioner was engaged directly as skilled artisan with effect from 1.6.1959.
- iii) Because the humble petitioner has attained temporary status after 120 days i.e. on 30.09.59.
- iv) Because from this very date, the pensionable service has to be counted.
- v) Because the petitioner has rendered more than 20 years while the pensionable service is 10 years.
- vi) Because the humble petitioner is, therefore, entitled to full pension from the date of retirement along with arrears.
- vii) Because the impugned order is totally arbitrary, illegal and capricious militating against the observation and direction given by this Hon'ble Tribunal as per judgment dated 13.3.2001.
- viii) Because the pensionary benefits is a welfare legislatures and the provisions given by welfare Estate has to be construed and complied with in the same spirit and the claim of the petitioner for pensionary benefit cannot be rejected on hyper technical/arbitrary ground, as has been done vide impugned order".

3. During the course of argument, the learned counsel for the parties reiterated the facts as well as the legal pleas from their respective pleadings.

Learned counsel for the applicant has filed a



supplementary affidavit and no reply has been filed from the respondents as there was no order from this Court to file the same. Through the supplementary affidavit, the applicant has brought in record certain facts which require confirmation from the respondents. In order to determine the issue, it would be just and proper to direct the respondents to consider the facts mentioned in supplementary affidavit filed by the applicant.

4. Under the circumstances mentioned above, I feel that the O.A. may be disposed of with a direction to the respondents to consider the facts mentioned and the legal pleas mentioned in the supplementary affidavit and pass appropriate order as per Rules.

5. The O.A. is disposed of in terms of the above order.

No costs.


Member-A

Manish/-