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Open Court

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH,
ALLAHABAD**

ORIGINAL APPLICATION NO. 866 OF 2006

ALLAHABAD THIS THE 28th DAY OF MAY, 2008

HON'BLE MR. N.D. DAYAL, MEMBER-A

Paras Nath, S/o Sri Ram Sunder, R/o Village Nimauli,
Post Office and Police Station Singramau, District
Jaunpur.

.....Applicant

(By Advocate Shri Rakesh Verma)

V E R S U S

1. Union of India through General Manager, Northern Railway, Lucknow.
2. D.R.M., N.R., Lucknow.
3. Sr. Divisional Personnel Officer, N.R., Lucknow.
4. Assistant Divisional Engineer, N.R., Sultanpur.
5. Sr. Divisional Accounts Officer, N.R., Lucknow.

.....Respondents

(By Advocate: Sri P. Mathur)

O R D E R

In this matter, the applicant has prayed for benefit of full qualifying service during the time when he was regularly appointed with Railways. It has been stated at para 4.2 of the O.A. that the applicant was granted temporary status and was regularized w.e.f. 21.11.1978. Since he retired on 31.5.2006, which is not disputed, the learned counsel for the applicant submits that the period of his regular service was 27 years, 6 months and 10 days.

2. The learned counsel for respondents has denied that the applicant was regularly appointed on

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21.11.1978 and his working as Gate-keeper has been questioned for the purpose of length of service by saying that it was only 18 years, 10 months and 6 days. For this purpose, the respondents have prepared a chart. This chart shows that total service from 21.11.1978 to 31.5.2006 was 27 years, 6 months and 10 days. From this period, half of the casual paid period appears to have been reduced as submitted by the learned counsel for the respondents; this is 5 years, 6 months and 7 days leaving behind only 22 years and 03 days. It is further revealed from the chart that the period of non-qualifying service has been deducted, which is 3 years, 1 month and 27 days. This, qualifying service is stated to have been arrived as per details of ~~absentee~~ etc. of the applicant. Thus, balance is found to be 18 years, 10 months and 6 days. Details of absence or the rule, if any, are not ^{pointed out} ~~from~~ record. The learned counsel for the respondents states that he is handicapped in absence of the original records, which could not be made available, even though the matter was fixed for final disposal today since they have not arrived from the department. It is further submitted by him, as at the end of para 6 of the Counter affidavit, that the claim of the applicant is based on hypothetical presumption.

3. The learned counsel for the respondents further states that prayer of the applicant is for deciding his representation also and draws attention to the date of screening which is mentioned in the chart as 26.11.1989 and under that the date of engagement of the applicant has also been given as 21.11.1978. There has been no clarification as to what is the implication.

4. In so far as the prayer for consideration of representation is concerned, it is a secondary prayer, whereas the main prayer is for grant ^{to} of

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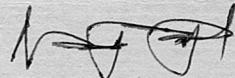
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credit for length of qualifying service of 27 years, 6 months and 10 days for the purpose of retirement benefits. It is felt that it would be difficult to accept that this length of service is based on presumption because it is the difference between the date of appointment viz. 21.11.1978 and date of retirement viz. 31.5.2006.

5. Having carefully considered the matter and taking into account that total qualifying service for the purpose of pensionary benefits would be not only that from the date of regular appointment to the date of retirement, but also 50% of the service rendered on casual basis which comes to about 32 years, 11 months and 17 days and that as per learned counsel for applicant the applicant is seeking only the benefit of length of service on regular basis i.e. 27 years, 6 month and 10 days, I am inclined to agree with the claim made by the applicant.

6. In the light of the above observations, the respondents are asked to consider the prayer of the applicant and extend to him the credit of a length of qualifying service equal to 27 years, 6 months and 10 days for the purpose of fixation of pensionary dues. The amount that may accrue to the applicant shall be released within a period of two months from the date of receipt of a certified copy of this order.

7. The O.A. stands disposed of in the above terms with no order as to costs.



MEMBER-A

GIRISH/-