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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

O.A.No.380 of 1988

Date of decision - January 29, 1990.

Sri Y. Rama Rao,
S/o late Y. Appala Swamy
(Retired) Ex. D.S.K.(III)
(E.L.S., At/P.O.Gunupur,
District-Koraput.

... Applicant

Versus.

1. Union of India represented by
the General Manager, South Eastern Railway,
Garden Reach, Calcutta-43 (W.B.)
2. The Controller of Stores, S.E.Railway,
Garden Reach, Calcutta-43 (W.B.)

... Respondents.

For Applicant - M/s. B.L.N.Swamy, & B.V.B.Das
For Respondents - Mr. D.N.Misra, Standing Counsel
for Railway Admn.

CORAM :

The Honourable Mr. N.Sengupta, Member (Judl.)

A n d

The Honourable Miss Usha Savara, Member (Admn.)

1. Whether reporters of local papers may be allowed to
see the judgment ? Yes.
 2. To be referred to the Reporters or not ? No.
 3. Whether Their Lordships wish to see the fair
copy of the judgment ?
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ORDER.

N.SENGUPTA, MEMBER(J) Heard Mr. B.L.N.Swamy for the applicant and Mr. D.N.

Mishra for the Railway Administration. From the application and as has been submitted by Mr. D.N.Mishra, it would be clear that the applicant was first appointed in 1947 but there was a proceeding against him in which he was removed for unauthorised absence in the year 1971. Then followed some representations to the Railway authorities by the wife of the applicant and by himself. Ultimately in 1981 the applicant was given ^{out of} ~~a~~ grace and temporary appointment on the condition that the said appointment would not entitle him to any pension. On attaining the age of ordinary superannuation, the applicant retired in 1987. In the present application, the applicant prays that he should be given pensionary benefit ^taking the first and second spells of service together. Sri D.N.Mishra, learned counsel for the respondents contends that for the first spell the applicant has been given what is his due under the rules and it is not permissible under the rules to condone the break of 10 years of service and tack the second spell with the first spell of service of the applicant. We find much force in this contention of Mr. Mishra. He has next contended that in view of the contract of service between the applicant and the Railway Administration, the applicant cannot claim any pensionary benefits for the second spell of his service. It is true that the second spell was almost a gift to the applicant and on some compassion-ate grounds. But if the rules would permit any pensionary benefit for having rendered service for 6 years, the applicant should ~~be~~ not be deprived of that benefit. It is now well settled that though a service under a Government or an organisation run by

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the Government may initially be contractual, yet after appointment, it is governed by the rules .

With these observations, the application is disposed of. No costs.

M. L. Sanyal
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Member (Admn. 38/1)



M. Sanyal
..... 29.1.90
Member (Judl.)