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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO.566 OF 1995

Cuttack, this the 15th day of February, 2002

Sk.Hossen

....

Applicant

Vrs.

Union of India and another

...

Respondents

FOR INSTRUCTIONS

- 1) Whether it be referred to the Reporters or not? *No*
- 2) Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? *No*

1. Mohanty
(M.R.MOHANTY)
MEMBER(JUDICIAL)

15/02/2002

2.
(S.A.T.RIZVI)
MEMBER(ADMINISTRATIVE)

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CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO.566 OF 1995
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CORAM:

HON'BLE SHRI S.A.T.RIZVI, MEMBER(ADMN.)
&
HON'BLE SHRI M.R.MOHANTY, MEMBER(JUDL.)

....

Sk.Hossen, aged about 61 years, son of Sk.Fakir, Vill-Sankarpur,
P.O-Puruna Bazar, District-Bhadrak

.....Applicant

Advocates for the applicant - M/s B.N.Prasad
P.S.Mohanty
H.N.Panda

Vrs.

1. Union of India, represented through
the General Manager, S.E.Railway,
Garden Reach, Calcutta-43.
2. Divisional Railway Manager,
S.E.Railway, At-Khurda Road, P.O-Jatni,
District-Khurda

.....Respondents

Advocates for the respondents - M/s Ramesh Ch.Rath
P.K.Rath

....

O R D E R
(ORAL)

MR.S.A.T.RIZVI, MEMBER(ADMN.)

Heard the learned counsel on either side.

Records have also been perused.

2. The entire period of service rendered by
the applicant has not been taken into account for the purpose
of granting pensionary benefits. Hence the present O.A.

3. After his appointment as a casual labourer under the Inspector of Works at Bhadrak in the year 1967, temporary status was conferred on the applicant with effect from 24.3.1967 and he retired from service on reaching the age of superannuation on 30.6.1993. Meanwhile, he was regularised with effect from 30.7.1985. The prayer made is that the service rendered by him continuously from 24.3.1967 up to the date of his retirement should be treated as qualifying service for the grant of pensionary benefits. He retired as Mason Grade II.

4. The learned counsel appearing on behalf of the respondents has, by placing reliance on the rule position, argued that the applicant is entitled to the counting of only 50% of period of service rendered by him in temporary status capacity for the purpose of pensionary benefits. The rule in question has been placed on record at Annexure R/2. We have perused the same and find that it clearly provides for counting of only 50% of the service rendered in temporary status capacity. The applicant was borne on the permanent establishment of the Railways with effect from 30.7.1985 on which date he was regularised/confirmed. Thus, the benefit of the entire service rendered by him from 30.7.1985 up to 30.6.1993 has been given to him, in addition to the benefit of 50% of the service rendered by him in temporary status capacity from 24.3.1967 to 29.7.1985. After making calculations of the various pensionary benefits accruing to the plaintiff on the aforesaid basis, the entire amount found due under various

heads has already been paid to the applicant. Nothing more is due to the applicant. Accordingly, the present O.A. deserves to be dismissed.

5. The learned counsel appearing on behalf of the applicant has disputed the position taken by the respondents and has relied on the judgment rendered by this Tribunal on 29.3.1993 in O.A.No. 605 of 1992. The facts of that O.A. are substantially similar to the facts contained in the present O.A. Despite this, the view taken by the Tribunal in that O.A. will not apply for the simple reason that the rule position pointed out by the respondents in the present O.A. was neither placed before the Tribunal in that O.A. nor was ^{it} considered by it. Thus, orders were passed in that O.A. without taking the rule position into account. We find ourselves in agreement with the learned counsel for the respondents that for the above stated reason, reliance cannot be placed on that judgment for deciding the present O.A.

6. In the light of the foregoing, the O.A. is found to be devoid of merit and is dismissed.

Parasuram Mohanty
(M.R.MOHANTY) 15/02/2002
MEMBER (JUDICIAL)

S.A.T.Rizvi
(S.A.T.RIZVI)
MEMBER (ADMINISTRATIVE)