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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 580/1996.
Cuttack, this the 24th day of April, 2002.

Bhaskar Parida.

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Applicant.

Vrs.

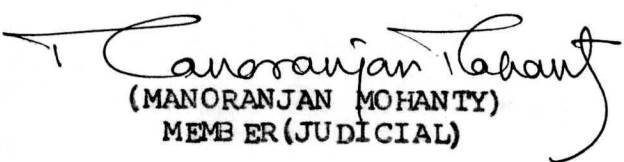
Union of India & Ors.

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Respondents.

FOR INSTRUCTIONS

1. whether it be referred to the reporters or not? Yes.
2. whether it be circulated to all the Benches of the Central Administrative Tribunal or not? No.


(MANORANJAN MOHANTY)
MEMBER (JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH; CUTTACK.

ORIGINAL APPLICATION NO. 580 OF 1996.
Cuttack, this the 24th day of April, 2002.

C O R A M

THE HONOURABLE MR. MANORANJAN MOHANTY, MEMBER (JUDICIAL) .

Bhaskar Parida, S/o. Late Krutibas Parida,
At/Po; Nadhara, Dist; Dhenkanal. Applicant.

By legal practitioner; M/s. K.K. Swain, P.N. Mohanty,
M. R. Nayak. M.K. Sahoo,
S. C. Padhi, Advocates.

-VERSUS-

1. Union of India represented by the
General Manager, South Eastern Railway,
Garden Reach, Calcutta-43.
2. The divisional Railway Manager,
South Eastern Railway, Khurda Road,
Orissa.
3. The Senior (Divisional Personnel Officer),
South Eastern Railway, Khurda Road, Orissa.
4. The Bridge Inspector (Regirdering) Birupa,
South Eastern Railway, Jagatpur, Cuttack,
Orissa. Respondents.

By legal practitioner; Mr. D.N. Mishra, Standing Counsel (Rlys.)

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O R D E R

(O R A L)

MR. MANORANJAN MOHANTY, MEMBER (JUDICIAL) :

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Applicant, in this Original Application, was first engaged as casual Mate on 28-2-1967 and was, subsequently conferred with temporary status in 1981. He was thereafter taken to regular establishment (PCR posts) w.e.f. 1.4.1984. He retired, on superannuation, on attaining the age of retirement w.e.f. 30.6.1993. Since he has been paid pension

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taking his qualifying service of about 11 years (i.e. 50% of his services spent with temporary status from 1-1-81 to 31-3-1984 and 100% of the period spent by him in regular establishment from 1-4-1984 to 30-6-1993), he moved before this Tribunal, in the present Original Application, with a prayer to direct the Respondents to take into consideration the total period of casual and temporary status service rendered by him for the purpose of fixation of his pension and accordingly he has prayed for issuance of further direction for revision of his pension and payment of arrears.

2. Respondents in their counter have stated that as per the Circular of the Railway Board, 50% of the temporary status period and 100% of the regular service period (in PCR Post) has been taken into consideration and since the above said period comes to about 11 years of qualifying service, proportionate pension has been sanctioned in favour of the Applicant. It has further been stated by the Respondents that the Applicant had worked on casual basis w.e.f. 5-12-1972. They have denied the averment of the Applicant that he was engaged on casual basis prior to 5-12-1972 under other Railway Units.

3. Having heard the learned counsel for the Applicant and Mr. D.N. Mishra, learned Standing Counsel appearing for the Railways and having perused the records, it appears that there are no real reason not to take the entire period spent with temporary status as qualifying service for computation of pensionary benefits. Railways were exploiting

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the services of a huge man-power; by branding them as "Casual workers" for years and years and when such actions of the Railways were found to be bad in the touch-stone of judicial scrutiny, the Railways/Central Government of India came up with scheme(s) of regularisation of Casual workers and, as a result thereof, Casual workers were asked to be enlisted (to be called as "enlisted Casual workers") and then they were given "temporary status". While giving them temporary status almost all the benefits (like salary, Leave, Medical benefits etc.) as are available to personnel of regular establishment are given to them and, finally, they are taken to regular establishment. By the time, they were taken to regular establishment, there remained no time in the hands of such personnel to serve for long (in the regular establishment) in order to get qualifying years of service to get pension. In the said premises, the Railway Board has come up with the scheme to take into consideration 50% of the service period spent with temporary status towards computation of qualifying service for grant of pension. In the present Original Application, the Applicant has challenged the said action of the Railways/Government of India in not computing the entire period spent by him with temporary status. In fact, there are no reasonableness in not taking into consideration the entire period spent by the Applicant in serving the Railways with temporary status. One earns pension while serving his master and pension is not bounty. As a consequence, denial of 50% of service period to be counted towards pensionable establishment can not be upheld in this proceeding.

4. In OA No. 581/1996 disposed of today i.e. 24.4.2002, (Sachi Prusty Vrs. UOI and others) while deciding the similar issues, this Tribunal, after taking into consideration the orders passed by the Emakulam and Madras Benches of this Central Administrative Tribunal as also the decisions of the Hon'ble High Court of Orissa and that of the Apex Court of India, have held that there is no reasonable nexus in taking into consideration only 50% of the period of service after conferment of temporary status/not counting alike 50% of the casual period rendered by the employees and, accordingly, directed the Respondents therein that so much of his earlier service period should be reckoned, even if there had been breaks in his employment, so as to make the Applicant therein to be eligible for the minimum pension.

5. Since in the present case, the minimum pension has been granted to the Applicant, the matter is left to the Respondents to reconsider the grievances of the Applicant with regard to enhancement of pension by computing the entire period served by the Applicant with temporary status, within a period of 180 days from the date of receipt of a copy of this order. In the result, with the observations and directions as made above, this Original Application is allowed but without any order as to costs.

Manoranjan Mohanty
(MANORANJAN MOHANTY)
MEMBER (JUDICIAL) 24.04.2002

KNM/CM.