

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 125 OF 1998.

Cuttack, this the 13th day of September, 1999.

Kanai Das Alias Kanai. ... Applicant.

- Versus -

Union of India & Others. ... 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.**

C. — 13.9.99
(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
13.9.99

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CORAM:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN

AND

THE HONOURABLE MR. G. NARASIMHAM, MEMBER (JUDICIAL).

..

Kanai Das Alias Kanai, aged about 58 years,
Son of late Lakhan Das, At/PO. Baralapokhari,
Via. Champa, Dist. Bhadrak, Pin-756101.

... APPLICANT.

By legal practitioner: M/s. S.K. Mohanty, S.P. Mohanty,
P.K. Lenka, Advocates.

- VRS. -

1. Union of India represented by the General Manager, SE Railway, Garden Reach, Calcutta-43.
2. Senior Divisional Personnel Officer, SE Rly., Khurda Road PO. Jatni, Dist. Khurda.
3. Senior Divisional Engineer (North), SE Railway, Khurda Road.
4. Inspector of Works, SE Rly., Bhadrak, PO. Champa, Dist. Bhadrak.
5. Divisional Railway Manager, SE Railway, Khurda, Road.

... RESPONDENTS.

By legal practitioner: Smt. C. Kasturi, A.K. Sethy, Additional
Standing Counsel (Railways).

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O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN:

In this original Application under section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for a direction to the Respondents to treat the applicant's entire service period from 24-2-1966 to 31-3-1996 as qualifying service for the purpose of pension including the period of service of 3 years and 15 days treated as non-qualifying service for pension in the order at Annexure-2 and to work out all pensionary benefits accordingly.

2. Respondents have filed counter and opposed the prayers of applicant. Today when the matter was called, learned Additional Standing Counsel and her associate are not present. No request has also been made on their behalf seeking adjournment. They are also not on accommodation. As this relates to a pension matter, it is not possible to drag on the matter indefinitely. We have, therefore, heard Mr. P. K. Lenka, learned counsel for applicant and have also perused the records.

3. Facts of this case, according to applicant are that he joined as ECR Gr. III (Carpenter), in the Engineering Department under the Inspector of Works, South Eastern Railway, Bhadrak on temporary basis on 24-2-1966. At that time, he was getting the CPC scale. His service was regularised with effect from 23.3.1972. He retired on superannuation on 31-3-1996 and his pensionable

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service has been worked out as 27 years, and 24 days though according to applicant his total period of service is 30 years, 01 month and 07 days from 24-2-1966 i.e. the date of his initial appointment to 31-3-1996 i.e. the date of his superannuation. Departmental Authorities while calculating the pensionable service, have excluded the period of 3 years and 15 days which has led the applicant to come up in this Original Application with the prayers referred to earlier.

4. Respondents, in their counter have submitted that the applicant was initially appointed as Ty. Engg. Carpenter with effect from 24-2-1966 in the scale of Rs. 110-180/-. He was empanelled for regular appointment which he got on 24-3-1972 in Class - IV category in the scale of Rs. 70-80/-. vide panel published on 20-3-1972, he was confirmed as Rest House Caretaker with effect from 6.11.1975 and was promoted as Engg. Carpenter, Gr. II in the scale of Rs. 1200-1800/- w.e.f. 1.12.1995 and retired from service w.e.f. 31-3-1996 on superannuation. Railways have stated that according to relevant rules, they have taken towards qualifying service for pension 50% of the temporary service prior to regularisation of his service and therefore, no illegality has been committed. Temporary service of applicant was from 24-2-1966 to 23-3-1972 which works out to six years and one month. It is well settled that under the Rules only 50% of the temporary service, prior to regularisation has to be taken into consideration and therefore, three years and fifteen days out of the six years and one month have been taken as qualifying service and other 50% i.e.

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three years and fifteen days has not been taken as qualifying service.. This is strictly in accordance with rules and no fault can be found with the Railways in working out qualifying service in the above fashion. Applicant has admitted that accordingly pension has been worked out and sanctioned to him. In view of the above, we hold that the applicant is not entitled to have the period of three years and fifteen days excluded from the qualifying service counted towards pension. This application, is therefore, held to be without any merit and is rejected but under the circumstances, without any order as to costs.

(G. NARASIMHAM)
MEMBER(JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
13.9.99

KNM/CM.