

18

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH: CTC.

....

O.A. NO. 250 OF 1998  
Cuttack, this the 18<sup>th</sup> day of November, 2002.

Brajabandhu Subudhi.

....

Applicant.

:Versus:

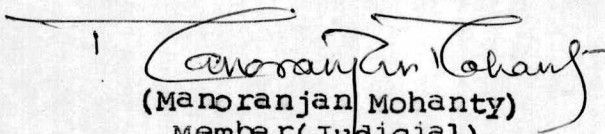
Union of India & Ors.

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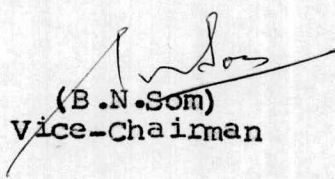
Respondents.

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not?
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not?

  
(Manoranjan Mohanty)  
Member (Judicial)

18/11/2002

  
(B.N. Som)  
Vice-Chairman

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19  
CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

O.A. NO.250 OF 1998  
Cuttack, this the 18<sup>th</sup> day of November, 2002.

C O R A M

THE HONOURABLE MR. B.N. SOM, VICE-CHAIRMAN  
A N D  
THE HONOURABLE MR.M.R.MOHANTY, MEMBER(JUDL.)

...

Sri Brajabandhu Subudhi, Vill: panchupalli,  
Po: Retang, Ps: Air Field, Bhubaneswar,  
District: Khurda, Gate Keeper under Jr.  
Engineer, South Eastern Railway, Barang.

... .. Applicant.

By legal practitioner: Mr.U.N.Mishra,  
Advocate.

- Versus -

1. Union of India represented through the  
General Manager, South Eastern Railway,  
Garden Reach, Calcutta-46, West Bengal.
2. Divisional Railway Manager, Khurda Road  
Division, South Eastern Railway,  
At/Po: Jatni, Dist: Khurda.
3. Senior personnel Officer (Welfare),  
South Eastern Railway, At/po: Jatni,  
Dist: Khurda.
4. Divisional personnel Officer,  
Khurda Road Division, South Eastern Railway,  
At/Po: Jatni, Dist: Khurda.

... .. Respondents.

By legal practitioner: M/s.D.N.Mishra, S.K.panda,  
Standing Counsel (Railways).

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2

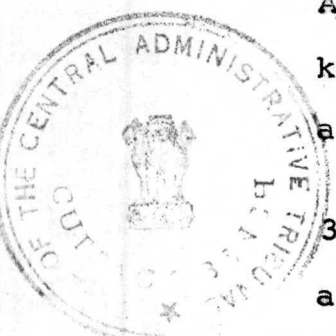
O R D E R

MR. B.N.SOM, VICE-CHAIRMAN:

Applicant, Sri Brajabandhu Subudhi, has filed this Original Application under section 19 of the Administrative Tribunals Act, 1985 seeking reliefs on two counts; firstly <sup>quashing</sup> assailing the Office Order of the Assistant Engineer, South Eastern Railway, Bhubaneswar dated 15-03-1997 (Annexure-1) notifying the date of retirement of the Applicant w.e.f. 01-04-1997 (FN) on attaining the age of superannuation of 58 years, and secondly, praying for a direction to the Respondents to pay the Applicant pensionary benefits including gratuity taking into consideration his date of entry into service in the year 1962. He has also prayed for a direction to the Respondents to enhance the age of retirement of the Applicant to 60 years.

2. The Applicant admits that his date of birth is '05-01-1939' and that he started his service at the age of 23 years in the year 1962. He alleges that although he was working in the Railway since 1962 but in the service book maintained by the Respondents, his continuous service has been shown from 06-10-1971; as a result of which, he has been allowed pensionable service of 24 years and 7 months after deducting 2 years service from his total period

of work. It is the plea of the Applicant that had his period of service been counted from 1962, till the date of his superannuation, his pensionable service would have been over 35 years and he would have been entitled to full pension. He filed evidences in support of his plea that he started his career in the Railway from 17-08-1962. It has been averred that the Applicant retired from service while working as Gatekeeper in the South Eastern Railway, Khurda Road Division at Baranga Railway Station.



3. Respondents in their counter have denied the assertions made by the Applicant in his Original Application and have stated that the Applicant was appointed as a Gangman in the year 1971 i.e. w.e.f. 06-10-1971 and confirmed in that post from 01-07-1972. After confirmation, he was posted as Gatekeeper w.e.f. 06-10-1972 and retired from Railway service, on attaining the age of superannuation of 58 years on 31-03-1997. It has been averred by the Respondents that the qualifying years of service, for retirement benefits, had been correctly calculated by them and further explained by them that although the Applicant had put in 25 years, 5 months and 5 days of service, 10 months and 22 days of service had been deducted out of that qualifying service due to his unauthorised absence from duty. The Respondents have also denied the averments that the Applicant was entitled to count pensionable service from 1962. In support of their

22

avements, they pointed out that the certificate produced by the Applicant (Annexures-4 to 10) are only certificates of casual work in spells which cannot be counted towards determination of qualifying service for calculation of pension as per Rules. The Respondents have reiterated that taking into the regular service of the Applicant from 06-07-1971 to 31-03-1997, his pension and other retirement dues have been calculated and paid to the Applicant. They have also disputed the veracity of the documents at Annexures-4 to 10. The allegation of the Applicant that the Respondents have illegally deducted Rs.1917/- towards electricity charges in place of Rs.167/-, the Respondents clarified that an amount of Rs.1917/- was deducted from the Applicant, at the time of retirement on calculation of arrear electricity charges from March, 1993 to March, 1997. Regarding the age of retirement, the Respondents have submitted that the Applicant being a post 1962 appointee, was governed by the provision of 1801(b) RII of Railway Rules which Class-IV/Gr.D provides that the Railway employees were to retire on superannuation on attaining the age of 58 years. It was only w.e.f. 13-05-1998 the age of retirement of Railway employees was enhanced to 60 years.

4. We have heard Mr. U.N. Mishra, learned Counsel for the Applicant and Mr. D.N. Mishra, learned Standing Counsel for the railways, appearing for the Respondents and perused the records.

5. We have carefully considered the reliefs sought by the Applicant that the age of superannuation



of the Applicant should have been 60 and not 58 years. In this regard, Learned Standing Counsel for the Rlys. Mr. Mishra, has drawn our attention to the provisions of railway rules to the effect that the age of retirement of Railway employees for Class-IV/Group 'D' category was 60 years for those who had entered service in the Railways prior to 01-12-1962. Learned standing counsel for the Railways Mr. Mishra, has also filed a copy of the said circular/rule which provide as follows:-

"1.(i) Except as otherwise provided in this rule, as below or any other rules or order for the time being in force, every railway servant shall retire from service on the afternoon of the last day of the month in which he attains the age of 58 years. (1801(b) R II)/FR 56.

(ii) A railway servant in class-IV/Group 'D' service or post who prior to 01-12-1962 was entitled to serve upto the age of 60 years shall retire from service on the afternoon of the last day of the month in which he attains the age of 60 years. (1801(b) R II)/FR 56."

In view of the above, we have no option than to hold that the prayer of the Applicant for a direction to the Respondents to enhance the age of superannuation of the Applicant from 58 to 60 years does not have any merit and, therefore, we decline to intervene in the matter. His other prayer for granting of pensionary benefits would have been relevant, had his prayer for higher age of superannuation was accepted. That being not so, the second prayer of the Applicant also accordingly fails.

6. In the result, therefore, this O.A. is dismissed being devoid of any merit. No costs.

*Manoranjan Mohanty*  
(MANORANJAN MOHANTY)

MEMBER (JUDICIAL) 18/11/2022

*B.N. Som*  
(B.N. SOM)

VICE-CHAIRMAN

