

9

✓

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH; CUTTACK.

ORIGINAL APPLICATION NO. 429 OF 1998.

Cuttack, this the 21st day of November, 2000.

Murali Mohanty @ Murali, Manson Gr. II, ... APPLICANT.

Vrs.

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

(G. NARASIMHAM)  
MEMBER (JUDICIAL)

Somnath Som  
(SOMNATH SOM)  
VICE-CHAIRMAN

10

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 429 OF 1998.

Cuttack, this the 21st day of November, 2001.

CORAM:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN  
AND  
THE HONOURABLE MR. G. NARASIMHAM, MEMBER (JUDICIAL).

..

Murali Mohanty @ Marali, Manson Gr. II,  
Son of late Dinabandhu Mohanty,  
At-Birikhanti, PO; Mahimagadi,  
PS; Gandia, Dist. Dhenkanal.

.... APPLICANT.

By legal practitioner : M/s. Sanjib Mohanty, P.K. Sahoo,  
B. Acharya, Advocates.

- Versus -

1. Union of India represented through  
its Secretary, Railway Department,  
Rail Bhawan, New Delhi.
2. The General Manager,  
S. E. Railway, Garden Reach,  
Calcutta-43.
3. Divisional Railway Manager,  
S. E. Railway, At-Khurda Road,  
PO; Jatni, Dist; Khurda.

.... RESPONDENTS.

By legal practitioner : Mr. S.L. Patnaik, Additional Standing  
Counsel.

....

S. Som

O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN:

In this Original Application, the applicant has prayed for a direction to the Respondents to treat his regular service from 24-2-1967 till the date of confirmation as qualifying service for pension.

2. Respondents have filed counter making various averments with regard to the service rendered by the applicant. For the purpose of considering this petition, it is not necessary to refer to all the averments made by the parties. In view of the averments made by the applicant in his petition and Respondents in their counter, we had directed the learned Additional Standing Counsel Madam S.L.Patnaik to produce the service book in original before us before we take up the matter for hearing. Accordingly, learned Additional Standing Counsel madam S.L.Patnaik has produced the service book in original of the applicant and we have gone through the same. We have heard Shri S.Mohanty, learned counsel for the applicant and Madam SL Patnaik, learned additional Standing Counsel appearing for the Respondents and have also perused the records.

3. The admitted position is that the applicant was regularised w.e.f. 3-5-1980 and was confirmed w.e.f. 1.1.1983. This has been averred by the Respondents in their counter and is also borne out by the entries made in the service book of the Applicant. It is submitted by learned counsel for the applicant that the applicant is going to retire on superannuation on 31-7-2001. His period of service from 3-5-1980 till his date of superannuation will count as qualifying service for

promotion and 100% of this period will be taken as qualifying service. The present controversy with regard to the period prior to 3-5-1980. Applicant has stated that he had been working as casual worker from 24-4-1967. Respondents have denied this in their counter and have stated that the applicant has not filed any scrap of paper in support of his claim that he had been working from 24-4-1967. The Respondents on the other hand stated that the applicant was engaged as a temporary trolley man w.e.f. 24-12-1970. On a reference to the service book, we however, find from page 6 of the service book that the applicant was appointed as a temporary khalasi in the scale of Rs. 70-85/- on 24-4-1967 and he has been allowed increments of Rs. 1/- in that scale raising his pay from Rs. 70/- to Rs. 76/- i.e. for a period of six years from 24-4-1967 to 10-5-1973. There are entries in the service book of the applicant and this has also been verified. There is also another entry that w.e.f. 1.1.1974 his pay was refixed in the revised scale of pay of Rs. 196-232/-. From all these, it is clear that the stand of the applicant that he has been working continuously from 24-4-1967 is borne out by the service record but merely because of his continuously engagement on casual basis from 24.4.67 he can not claim that the period of service is to be counted as pensionable service. Instructions provide that a casual labour after a certain period of continuous service as such, is entitled to be conferred with temporary status and w.e.f. the date of <sup>confirmation</sup> ~~conformation~~ of temporary status till the date of regularisation which in this case is 3.5.1980, 50% of the service rendered during this period will count towards pensionable service. It is submitted by learned ASC that 50%

13

of service rendered by the applicant after <sup>conferment</sup> ~~confirmation~~ <sub>of him.</sub> of temporary status and till regularisation will count towards pension but in this case in the service book we do not find any entry that temporary status has been conferred on him w.e.f. any particular date. We are also unable to indicate a date from which the applicant should have been conferred with temporary status because initially it was provided in the rules that temporary status will be conferred after 180 days i.e. six months of continuous employment as casual worker. Later on this has been reduced to 120 days. In view of this, we direct the departmental authorities to work out and confer temporary status on the applicant with effect from the date he is due to be conferred with such temporary status. This should be done within a period of 120 days from the date of receipt of a copy of this order. It is also ordered that the order conferring temporary status should be communicated to the applicant. We also make it clear that in case the applicant has any grievance with regard to the date of conferment of temporary status he would be free to approach this Tribunal. With the conferment of temporary status the period of service from that date till 3.5.1980 will count towards pensionable service only to the extent of 50% of service rendered. It is submitted by Mr. Mohanty, learned counsel for the applicant that as the applicant has not retired the actual question of pension does not arise.

J. J. M.

14

-5-

4. In the result, therefore, the Original application is disposed of with the observations and directions made above. The Original service book received from the learned Additional Standing Counsel is returned to her in Court. No costs.

(G. NARASIMHAM)  
MEMBER(JUDICIAL)

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN

KNM/CM.