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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 463 of 1998
Cuttack, this the 2nd day of Sept. 2004

Alekha Nisanka

.....

Applicant(s)

-VERSUS-

Union of India & Others

.....

Respondent(s)

FOR INSTRUCTIONS

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


(B.N. SENGUPTA)

VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 468 of 1998
Cuttack, this the 2nd day of Sept. 2004

CORAM:

HON'BLE SHRI B.N.SOM, VICE-CHAIRMAN

Sri. Alekha @ Alekha Nisanka, aged about 58 years, S/o Late Bhikari Nisanka, Vill-Jamukoli, PS-Bhubaneswar, PO-Panchgaon, Dist-Khurda.

... Applicant

Advocate(s) for the applicant

... M/s U.N. Mishra &
M.R. Dash

Versus-

1. Union of India, represented through the General Manager, S.E. Rly, garden Reach, Calcutta-46, West Bengal.
2. Divisional Manager, S.E.Rly, Khurda Road Division, At/PO-Jatni, Dist-Khurda.
3. Senior Personnel Officer (Welfare), S.E. Rly, At/PO - Jatni, Dist-Khurda.
4. Divisional Personnel Officer, South Eastern Railway, At/PO-Jatni, Dist-Khurda.

... Respondents

Advocate(s) for the Respondents

... Mrs. C.Kasturi

.....

O R D E R

SHRI B.N.SOM, VICE-CHAIRMAN:

This O.A. has been filed by Sri. Alekha Elias Alekha Nisanka, son of late Bhikari Bisanka, who retired as Senior Gangman, under PWI, Khurda, on 31.03.97. He has filed this O.A. seeking a direction to be issued to the Respondents to allow him to serve up to 60 years of age and also to treat his past service from the year 1959 to 1987 for the purpose of pension.

2. The applicant's case that he had started his service career in Railway from the year 1959 and continuously worked upto 1966, completing 1,354 and 1/2 days of service. But Respondents had counted his service only from the year 1987 and allowed him to retire from service on 01.03.97 and his pensionary benefits were limited to three years of service. He has also submitted that as he had joined service as casual labour first in the year 1959, he was entitled to 60 years of age for superannuation, but the same benefit has been denied to him.

3. The Respondents by filing a detailed counter has opposed the application. They have pointed out that the annexes 1,2 and 3 to the Original Application are not in conformity with the documents placed at annexes 4,5 and 6. They have also pointed out that the applicant has submitted no documents to prove that Alekha (son of Bhikari)

and Alekha Nisanka (son of Bhikari Bisanka) are one and the same person. They have, therefore, submitted that the application is liable to be rejected on the ground of doubtful identity of the applicant, as no credible evidence has been brought by the applicant on record to prove this point. However, on the merit of the case, they have pointed out that the applicant was initially engaged as CPC Gangman w.e.f. 25.07.87, attained Temporary status from the same date, and was regularised w.e.f. 08.06.94 by Senior Personnel Officer, Khurda Road. They have repudiated the claim of the applicant that he had worked for 1,364 and 1/2 days as casual labour between 1959 and 1966. On the other hand, the Respondents have counted the period of service as casual labour after his attainment of temporary status as qualifying service for pensionary benefits since 25.07.87 which worked out to 6 years 2 months and 27 days. His retirement benefits were calculated and paid on that basis. Referring to the provision of Rule 69 of Railway servants Pension Rules, 1993, they have stated that as the applicant had less than 10 years of qualifying service, he was eligible only for payment of service gratuity and gratuity, and accordingly he was paid an amount of Rs. 16,047.00.

4. They have also rebutted his claim for super-annuation at the age of 60 years on the ground that as per Railway

Board Order No.1103/98, dt.14.05.98, which came into force w.e.f. 13.05.1998, the age of retirement of Railway servants was enhanced to 60 years and as the applicant had retired earlier, than that date and before issue of this order, he was not entitled to superannuation at the age of 60 years. They have also clarified that it was incorrect on the part of the applicant to claim that O.A.No.284/87 was disposed of in his favour. On the other hand, the fact of the matter is, the O.A. was dismissed on 14.01.88 upholding the Respondent's action.

5. I have heard the counsel for both parties and also perused the records placed before us. The applicant has filed a rejoinder also.

6. I have carefully considered the submissions made by the applicant with regard to his claim for service benefits for the period from 1959 to 1966. We would like to observe that the applicant has not placed before us any material to prove that he had worked for 1,364 and 1/2 days between that period. Similarly, he has not been able to produce the original copy of Annexure-1 before us so that we could have asked the Respondents to verify the authenticity of the certificate and had the certificate been verified and found true, the prayer of the applicant could have been given serious consideration. Secondly, regarding his claim that he was entitled to retire at the age of 60 years, it has been clarified by the Learned

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Counsel for the Respondents that such a benefit the applicant could have reasonably demanded had he been in regular service before 01.12.62. Admittedly, he having not been appointed as a regular railway servant prior to 01.12.62, his claim for age of retirement at 60 is misconceived.

7. Having regard to the above facts and circumstances of the case, the O.A. fails on both the counts that there is no evidence on record to show that the applicant had qualifying service in the Railway prior to 25.07.87, which could be counted for pensionary benefit and secondly, as he was not appointed on regular basis prior to 01.12.62 but appointed on regular basis only with effect from 08.06.94, his date of retirement was correctly reckoned as 58 years by the Respondents.

8. Accordingly this O.A. fails and is dismissed, being devoid of merit. No costs.


(B.N. SOM)

VICE-CHAIRMAN

SAN/