

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.


ORIGINAL APPLICATION NO. 118/2000
Cuttack, this the 18th day of October, 2004

Kanduri Alias Kanduri Pradhan. ... Applicant.
-Mrs.-
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


(B.N. SOM)
Vice-Chairman


18/10/04
(M. R. MOHANTY)
Member (Judl.)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No. 118 of 2000
Cuttack, this the 18th day of October, 2004

CORAM:

THE HONOURABLE MR. B. N. SOM, VICE- CHAIRMAN
AND
THE HON'BLE MR. M. R. MOHANTY, MEMBER (JUDL.).

....

Kanduri @ Kanduri Pradhan,
Aged about 59 years,
S/o. Bhujja Pradhan,
Vill. Arugula, Po: Arugul,
Ps: Jatni, Dist. Khurda.

.... Applicant.

By legal practitioners: M/s. U.N. Mishra, S. Sahoo, Advocates.

-Versus-

1. Union of India represented through the
General Manager, South Eastern Railway
Garden Reach, Calcutta-43 West Bengal,
Pin-700043.
2. The Divisional Railway Manager,
South Eastern Railway, Khurda Road
Division, At: Jatni, Po: Jatni,
Dist. Khurda.
3. Senior Personnel Officer (Welfare)
South Eastern Railway, Khurda Road,
Division, At: Jatni, Po: Jatni,
Dist. Khurda.
4. Divisional Personnel Officer,
South Eastern Railway, Khurda Road Division,
At: Jatni, Po: Jatni, Dist. Khurda.

.... Respondents.


By legal practitioners: Mr. C. R. Mishra, Addl. Standing Counsel.

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O R D E R

MR. MANORANJAN MOHANTY, MEMBER (JUDICIAL):

Claiming to have entered Railway Services as Gangman in the year 1957 and continued as such under the Permanent Way Inspector of Khurda Road Division of South Eastern Railway till his superannuation on 1-1-1998, the Applicant has approached this Tribunal under section 19 of the Administrative Tribunals Act, 1985 by raising a grievance that in the Service certificate issued by the Railways, it has wrongly been mentioned (in the Column No. 6 thereof) that he has started his service in the Railways only in the year 1966 (and, thereby, nine years of his valuable services to the Railways have been reduced from his total service career) and, as a consequence, he has been allowed to receive less amount as leave salary, pension and gratuity. He has also raised grievances for not being allowed other facilities of Railways like medical aids etc. and that claim for Commutation of his pension has not been allowed to be materialised as per the last pay on the basis of revised pay scale. It is also the case of the Applicant that though he is a Class-IV employee and is entitled to continue upto the age of 60 years, he was not allowed to continue in service. Therefore, by filing this Original Application, the Applicant has prayed for the following reliefs:



"8. RELIEF SOUGHT:-

- (i) enhanced pension amount on the revised scale of engineering Department;
- (ii) enhanced gratuity amount on the said basis alongwith the past service not accounted for;
- (iii) all other pensionary benefits ancillary to retirement after fixing the pay of the Applicant as an employee of the engineering Department and gratuity amount accordingly".

2. Respondents have filed their counter stating therein that the Applicant was engaged under the Respondents on Casual basis in different spans starting from 20.10.1958, 28.6.1965 to 23.12.1965, 8.1.1966 to 23.3.1966 and 23.3.1966 to 24.7.1966 on availability of work. He got temporary status and temporary Gangman CPC from 24.7.1966 and continued as temporary Gangman upto 23.11.1971. Thereafter, he was screened and his service was regularised w.e.f. 24.11.1971 and posted under PWI Khurda and retired from Railway Service as Head Gangman w.e.f. 31.12.1997. After his retirement on superannuation, his pension, DCRG etc. were calculated taking into consideration his regular service w.e.f. 24.11.1971 to 31.12.1997 and 50% of temporary service (from 24.7.1966 to 23.11.1971) as per the Railway Board's Circular dated 14.10.1980 (Annexure-R/1) and, accordingly, he was paid the amount. It has been clarified by the Respondents that the pensionary benefits have been calculated as per the revised scale of pay as recommended by the Vth Pay Commission and Medical aid facilities has

not been provided to the Applicant as he did not opt for taking such facilities. As regards the date of retirement it was stated that the applicant retired from Railway service on 31.12.1997; whereas the enhanced age of retirement Notification of the Government came into effect w.e.f. 13.5.1998. Therefore, he is not entitled to get any benefit on the basis of the subsequent Notification. On the above grounds, the Respondents have opposed the prayer of the Applicant made in this O.A.

3. No rejoinder has been filed in this case, by the Applicant, controverting the averments made in the counter filed by the Respondents.

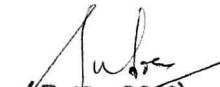
4. We have heard learned counsel for the Applicant and learned counsel appearing for the Respondents and perused the materials placed on record.

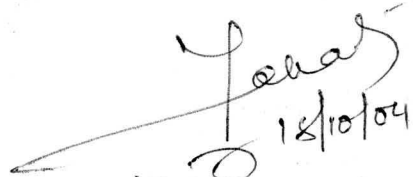
5. Learned counsel for the Applicant, during his argument, has made various submissions with regard to not counting the entire period of service of the Applicant starting from casual work till retirement; and not counting 100% of service from the date of temporary status to the date of retirement for the purpose of calculation of his pension; but we are not impressed by the said argument as those are futile exercise in view of the settled position of law on

the subject. On the other hand, as has been specifically submitted by the Respondents, all dues of the Applicant having been calculated and paid to him, as per the service records, and as we have also seen (from the calculation sheet) that no wrong has been committed by the Respondents in any manner, we are not inclined to accede to the prayers of the Applicant.

6. As regards the date of retirement of the Applicant, as to whether it should be 58 years or 60 years, we would like to mention here that in absence of any prayer in the O.A., it would not be proper to deal with the same; as the same will be as against the principles of deciding the matter without giving any opportunity to the Respondents.

7. In the result, this O.A. is dismissed. No costs.


(B.N. SOM)
Vice-Chairman


18/10/04
(M. R. MOHANTY)
Member (Judicial)