

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

O.A.Nos. 565/1995, 23/2001, 488/2000
Cuttack, this the 6th day of September, 2002.

C O R A M:-

THE HONOURABLE MR.V.SRIKANTAN, MEMBER (ADMINISTRATIVE)
A ND
THE HONOURABLE MR.MANORANJAN MOHANTY, MEMBER (JUDICIAL) .
...

O.A.NO. 565 OF 1995.

Karunakar Binchani, Aged about 61 years,
S/o. Fakir Binchani, resident of Village/
PO: Baral pokhari, PS: Bhadrak, Dist:
Bhadrak, working a Blak Smith (E.B.S)
Inspector of Work, S.E. Railway,
At/po: Charampa, Dist: Bhadrak. ... APPLICANT.

By legal practitioner: M/s .B.S.Tripathy,
N.Sarkar,
H.Sahoo,
J.Sahoo,
Advocates.

-versus-

1. Union of India represented through
the General Manager, S.E. Railway,
Garden Reach, Calcutta.
2. Divisional Railway Manager,
S.E. Railway, At: Khurda Road,
PO: Jatni, Dist: Khurda. ... RESPONDENTS.

By legal practitioner: M/s .Ashok Mohanty,
S.Ray,
A.A.Khan,
Sr.Counsel & Addl.St.Counsel
for the Railways/Respondents.

.....

O.A.NO. 23 OF 2001.

1. Krushna @ Krushna Jena, Aged about 61 years,
S/o: Dai Jena, Village/PO: Antia, PS: Dharmsala,
Dist: Jajpur retired Head Trackman, Engg-PW1/JJKR.

7
6



2. Sri Shyam, Aged about 61 years, S/o. Maguni, retired Sr. Gate Keeper, Engg-P.W.I/JJKR.
3. Sri Bato, aged about 61 years, S/o: Bhalo, retired Sr. Trackman, Engg-P.W.I/JJKR.
4. Madhab @ Madhaba Sahoo, Aged about 61 years, S/o: Babaji Sahoo, Village: Baligari, PO: Haridaspur, PS: Dharmasala, Dist. Jajpur.
5. Natho @ Natho Das, Aged about 62 years, S/o. Ram Das, Village: Baligari, PO: Haridaspur, PS: Dharmasala, Dist: Jajpur.
6. Kathia Behera, Aged about 61 years, S/o: Mandar Behera, Village: Ichhapur, PO: Puruna Baulamalia, PS: Dharmasala, Dist: Jajpur.

... APPLICANTS.

By legal practitioner: M/s. N.R. Routray,
S.N. Mishra,
Advocates.

- Versus -

1. Union of India represented by the Chairman, Railway Board, At: Rail Bhawan, PO: New Delhi-110 001.
2. The General Manager(p), S.E. Railway, Garden Reach, Calcutta-43, West Bengal.
3. Divisional Railway Manager, S.E. Railway, Khurda Road Division, At/po/ps: Jatni, District: Khurda.

.... RESPONDENTS.

By legal practitioner: Ms. C. Kasturi,
Mr. S.K. Biswas,
ASC for Railways/
Respondents.

....

7/6



1. Bhagaban Biswal, Aged about 61 years,
S/O: Late Ghana Biswal, Village: Pantu,
PO: Gadamadhapur, PS: Dharmasala,
Dist: Jajpur, retired Head Trackman under
P.W.I., Cuttack.
2. Golakha Bhuyan, Aged about 61 years,
S/O: Late Krusna Bhuyan, Village: Arimul,
PO: Jenapur, Dist: Jajpur, retired Sr.
Trackman, Engineering, PWI, Bhadrak.
3. Narayan Pradhan, Aged about 62 years,
S/o Late Jagu Pradhan, Village: Kustira,
PO: Antia, PS: Dharmasala, Dist: Jajpur,
retired Head Gangman, Engineering Deptt.,
4. Mukuta Sahoo, Aged about 58 years, wife of
late Bhikari Sahoo (retired Sr. Gangman
under P.W.I., Cuttack) resident of Village:
Barimula, PO: Bari thengar, PS: Badacana,
Dist: Jajpur.

.... APPLICANTS.

By legal practitioner: M/s N.R. Routray,
S. Mishra,
Advocates.

-Versus-

1. Union of India represented by the
Chairman, Railway Board, AT: Rail Bhawan,
PO: New Delhi-110 001.
2. The General Manager (P), S.E. Railway,
Garden Reach, Calcutta-43, West Bengal.
3. Divisional Railway Manager, S.E. Railway,
Khurda Road Division,
AT/PO/PS: Jatni,
Dist: Khurda.

... RESPONDENTS.

By legal practitioner: Mr. B. Pal, Sr. Counsel
&
Mr. R.C. Rath,
ASC
for the Railways/Respondents.

....

7



O R D E R

MR. MANORANJAN MOHANTY, MEMBER (JUDICIAL) :-

Since in all these three cases, common questions of fact and law are involved, though these three cases have been heard, one after the other, this common order is passed for the sake of convenience.

2. Applicant (in O.A. No.565/1995) joined the Civil Engineering Department of South Eastern Railway and was posted as Casual Labourer under Inspector of Works at Bhadrak in the year 1966. Thereafter, he was engaged as temporary Engineering Blacksmith in the scale of Rs.110-180 w.e.f. 24-12-1966. Subsequently, the Applicant was engaged as Sub-Helper on 24-12-1970 and again on 24-3-1972 at his own request, he was posted to his former post i.e. Casual Engineering Blacksmith by forfeiting his claim of regular posting in Class-IV category. While working as such, on being found suitable in the screening test held on 29-10-1984, for the post of Khalasi in the scale of pay of Rs.196-232/-, the Applicant was confirmed in the post of Khalasi-Helper w.e.f. 25-11-1986. Thus, the Applicant was engaged as a Temporary Employee w.e.f. 24-12-1966 to 29-11-1985 and as a regular employee w.e.f. 30-11-1985 to 30-4-1992, when he retired from Railway Service, on attaining the age of superannuation. As per the rules, the Departmental respondents calculated the service of the Applicant

8

13



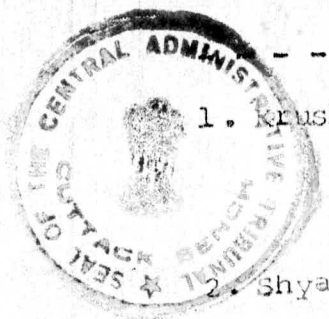
//5//

for the purpose of granting pensionary/retirement benefits by taking into account 50% of the service of casual period with temporary status w.e.f. 24-12-1966 to 29-11-1985 which comes to 9 years, 5 months and 17 days and 100% after confirmation w.e.f. 30.11.1985 to 30.4.1992 which comes to 6 years and 5 months and accordingly pension of the Applicant was fixed on the total qualifying service of 15 years, 10 months and 17 days or to say 16 years and the minimum pension and D.C.R.G. on the length of the service have been paid to the Applicant. These facts are not in dispute. But the Applicant in this Original Application, under section 19 of the Administrative Tribunals Act, 1985, prays for a direction to the Respondents to take into consideration the total period of service w.e.f. 24-12-1966 to 29-11-1985 as qualifying service for the purpose of pension.

Six Applicants (in Original Application No.23/2004) have come up in this Original Application ^{the AT Act, 1985} u/s.19 of/ with a prayer to direct the Respondents to take into consideration the entire period of service starting from their initial date of joining till retirement on attaining the age of superannuation, as qualifying service for the purpose of pension. Details of their date of initial engagements, date of temporary status/regularisation and superannuation have been given below in seriatim:-

1

14 13 11/6//



Sl.No.	Name of Applicant.	Date of appointment.	Date of Reg./ Confirmation	Date of retirement.
1.	Krushna & Krushna Jena	Gangman on 24-2-1966	regularised w.e.f.15.1.73 Confirmed w.e.f.15-1-74.	30.6.2000
2.	Shyam.	Ty.mate on 24-2-66 reverted to Gangman w.e.f. 25-2-71.	Regularised w.e.f.24.11.80 Confirmed w.e.f. 24.11.81.	31.7.2000
3.	Bato	Ty.Gangman w.e.f.24.2.66	Regularised w.e.f.24.7.82 Confirmed w.e.f.24.7.83	31.7.2000
4.	Machab & Machab saho	Ty.Gangman w.e.f.24.2.66	Regularised w.e.f. 24-3-80 and Confirmed w.e.f.29.3.85	31.5.1997
5.	Natho @ Natho Das	CPC Gangman w.e.f. 24-2-66	Regularised w.e.f.24.7.71 and Confirmed w.e.f.1.8.72.	30.4.1996
6.	Kathia Behera	CPC Gangman w.e.f. 28.11.89	Regularised w.e.f. 4.6.1994 and confirmed on 4-6-1995	31.10.2000

Thus, as per the Rules, taking into consideration 50% of their services as casual workers with temporary status till regularisation and 100% service from the date of regularisation till attaining the age of superannuation the minimum pension and other retiral dues have been calculated and paid to the applicants, and all the petitioners are now getting their minimum pension. These facts are not in dispute.

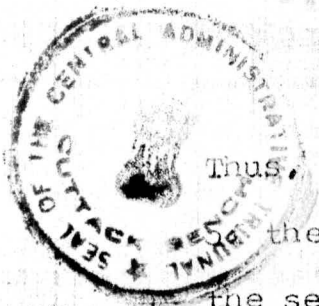
7



11/7/11

As regards Original Application No.488/2000, though initially four Applicants have filed this Original Application under section 19 of the Administrative Tribunals Act,1985 , praying for a direction to the Respondents to take into consideration the total length of service starting from the date of their joining under the Respondents till retirement on superannuation; at the time of hearing, learned counsel for the Applicants have pointed out that he does not want to press this Original Application so far as Applicants 2 and 4 are concerned and he confines his submission so far as Applicants 1 and 3 are concerned. As such, it is needless for us to go through the details so far as Applicants 2 and 4 are concerned and details of the initial appointment, date of temporary status/regularisation ,confirmation and date of retirements are given herein below:

- | | | | |
|------------------------------------|---|--|---|
| 1. Bhagaban Biswal | appointed as Casual mater and conferred with temporary status w.e.f. 24-09-1996 | Regularised w.e.f. 24.9.75 as permanent Gangman and Confirmed as Gangman w.e.f. 24-9-1976. promoted to the post of Sr.Gangman w.e.f. 1.8.1982. | Retired on superannuation w.e.f. 31.8.2000. |
| 2. xx xx. | | | |
| 3. Mukta sahuo (W/o.Bhikari Sahoo) | Bhikari sahuo joined initially in Rlys. as Ty. Gangman w.e.f. 25.6.1967. | Regularised w.e.f. 25.11.1980 as Gangman and confirmed on 25.11.1981. | Retired on superannuation w.e.f. 30.4.1995. |
| 4. xx xx. | | | |



15
//8//

Thus, as per the Rules, taking into consideration 50% of the casual period with temporary status and 100% of the service from the date of regularisation till the date of superannuation, the pension/family pension and D.C.R.G. have been calculated and paid to the Applicants and the Applicants are now getting their ^{minimum} pension/family regularly.

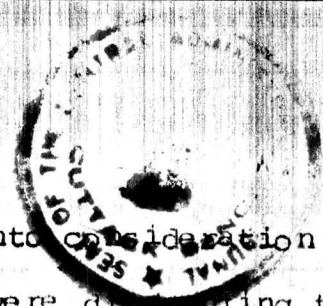
3. In all these cases, the Respondents have filed their counter opposing the claim of the Applicants but admitting the factual aspects made in the Original Applications.

4. We have heard Mr. B. Pal, learned Sr. Counsel for the Railways, assisted by Mr. R.C. Rath, in O.A.No. 488/2000, Mr. Ashok Mohanty, Sr. Counsel for the Railways assisted by Mr. S. Ray, learned ASC for the Railways and Madam C. Kasturi learned ASC in OA Nos. 565/1995 and 23/2001 and the Advocates for the Applicants.

5. During the course of argument/hearing, learned Counsel for the Applicants have vehemently submitted that since the Applicants/husband of the applicant, had dedicated their youth/life for the Railways and their continuance, though casual/temporary were uninterrupted, they should not be deprived of counting the entire period ^{of service} for the purpose of pension/family pension and other retiral dues and there is

J

11/9//



no justifiable reason not to take into consideration the entire period of service, when they were discharging the same and similar duties like that of other regular employees and enjoying the same benefits during their service period. Further it has been pointed out by the learned counsel for the Applicant that after serving for a long period and spending the youth, they should not be allowed to suffer during their evening days of life as pension is no longer bounty to be paid by the Govt. to its employees. It has been submitted by the learned counsel for the Applicants, in support of their plea for counting the entire period of service as qualifying service, that non-regularisation of the Applicants much before the dates of their respective regularisation, after completion of six months as casual workers with temporary status was/is a way to deprive the petitioners to get their period counted for the full pension. As such, the petitioners are entitled to count the entire service period for the purpose of counting the pension. To this, learned counsel appearing for the respondents submitted that since in these original Applications, no such prayer has been made with regard to antedating their date of regularisations, the same needs no answer. But in support of the prayers for counting the entire period of service as qualifying service for the purpose of pension of the Applicants, learned counsel for the Applicants relied upon the decision of the Hon'ble Supreme Court of India



17
18
//10//

reported in 1998(3) AISLJ 271 (UNION OF INDIA AND OTHERS
VRS. G. RADHAKRISHNA PANICKAR AND OTHERS etc.etc.) and

the decision of the Hon'ble Supreme Court of India
(in Civil Appeal No.2576 of 1995 (arising out of SLP
(C) No.6524 of 1994 decided on 21.2.1995) in the case
of THE DIRECTOR GENERAL, COUNCIL OF SCIENTIFIC AND
INDUSTRIAL RESEARCH VRS. DR. K. NARAYANSWAMI AND OTHERS.

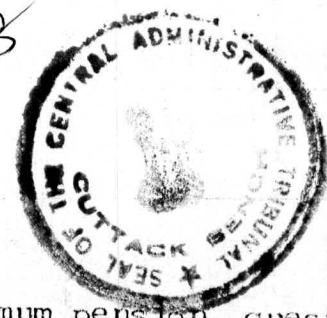
The Rule/scheme framed by the Railways for counting
50% of the casual period with temporary status and
100% of service from regularisation till the date of
retirement on superannuation was the subject matter
of challenge and while deciding the matter, the same
has been upheld by the Hon'ble Supreme Court in the
case of Union of India and others Vrs. G. Radhakrishna
Panickar and others (supra). Further in the case of
Director General, Council of Scientific and Industrial
Research Vrs. Dr. K. Narayanswami and others (supra), the
Hon'ble Supreme Court have held that period of temporary
service cannot be counted as qualifying service for the
purpose of pensionary benefits. Relying on these two
decisions it has been submitted by the counsel for the
Respondents that since all of the applicants are now
getting their ~~panimum~~ pension/family pension, question of
allowing them in a state of penury during the evening days
of life after putting many years of service to the Railways
does not arise. Had they not been allowed the minimum
pension/family pension, then the matter could have been
dealt differently for their sustenance. Since they have

f

18

19

//11//



been allowed by the railways the minimum pension, question of continuance in a state of penury is completely myth and needs no consideration.

6. In view of the discussions made above, is in since the matter no more/res-integra (in view of the decisions of the Hon'ble Apex Court of India referred to above) and since all the Applicants are now getting the minimum pension/family pension, we are not inclined to interfere in the matter...

7. In the result, therefore, all these three original Applications are dismissed without any merit. No costs.

SD/- V. SRIKANTAN
MEMBER (ADMIN.)

[Signature]
SD/- M. R. MOHANTY
MEMBER (ADMIN.)

KNM/CM.

TRUE COPY

Section Officer,
Central Administrative Tribunal
Cuttack Bench, Cuttack