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O.A. No.155/04 and 179 to 217/04

ORDER DATED 20th NOVEMBER, 2007

Coram:
DR. K.B.S. RAJAN, MEMBER(J)

Since none had appeared for the Applicant when the matter was called in its turn, I granted a pass over. None also appeared for the applicant on second call.

2. As many as 40 applicants have moved the above O.As for a direction to the respondents to work out the correct period of qualifying service, taking into account period of service rendered by the employee on casual basis. They had earlier moved O.A No. 1032/03 which was disposed of by the Tribunal on 19th December 2002 with a direction to the respondents to consider the case of the applicants by making representation and keeping in view the decided case of the Hon'ble Apex Court, the High Court's and the orders of the Tribunal, vide Annexure A-2. The applicants have filed their representations giving in detail all the decided cases covering the case. The Respondents

or dr. 20.11.07
Copy to 180 to
both the Courts
By
28/11/07

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have, based on Rule 69 (b) of the Railway Service (Pension) Rules, 1993, however, rejected the representations stating that under the above Rules, the total length of service rendered on casual basis cannot be taken into account. Annexure A-3 refers. The present OA had been filed as early as on 15-01-2004 for a direction to the respondents to take into account the period of service rendered on casual basis. The case was then listed on 27-05-2004 when it was adjourned to 12-07-2004 at the request of the applicant, followed by another listing on 22nd June, 2004, when again, it was adjourned as the counsel for the applicant wanted to file some more papers. However, when the case was listed on 12th July, 2004, no appearance was made. Consequently, the case was directed to be put up, "When Moved." Till date no steps were taken by the applicants to move the matter. The Registry has listed the case for order. No notice has so far been issued in this case.

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3. The long silence of the applicants in moving the matter for listing clearly manifests that the applicants are no longer interested in prosecuting the case. Even on merit, it is observed that the respondents have taken into account 50% of the period of temporary status and full period of the regular service of the applicants. In their reply to one of the representations, filed by one Shri Ramiah, the dates of entry as casual labour as given in Annexure A-1 series vide serial No. 33 tally with the dates given in the rejection order. The date of entry in casual service was 24-11-1967 and date of superannuation was 31-07-2001. In between, as per the respondents, the date of regular service was 21-04-1984. Thus, the respondents have taken half the period from 24-11-1967 to 20-04-1984 (which comes to 16 years 4 months and 8 days half of which works out to 8 years, 2 months and 4 days) plus full period of service from 21-04-1984 to 31-07-2001, as reduced by period of 1 month and 27 days, being Leave without pay and thus, arrived at the figure of 25-1/2 years as net qualifying service. This is as per Rule 69(b) of the Railway Pension Rules.

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4. No legal flaw could be discerned from the action taken by the respondents and the period of calculation of qualifying service. Thus on merit also this OA fails. Hence, invoking provisions under Rule 15(1) of the CAT (Procedure) Rule, 1986, these OAs are dismissed. No cost.
5. Copy of this order be sent to the applicants individually and the respondents.



MEMBER (JUDICIAL)