

5
CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 115 OF 2006
CUTTACK, THIS THE ~~11~~4 DAY OF November, 2008


Laxman @ Laxman Mandia Applicant


Vs

Union of India & Others Respondents

FOR INSTRUCTIONS

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


(C.R. Mohapatra)
MEMBER (A)


(K. Thankappan)
MEMBER (J)

6

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CUTTACK BENCH, CUTTACK**

ORIGINAL APPLICATION NO. 115 OF 2006
CUTTACK, THIS THE ~~11th~~ DAY OF November, 2008

CORAM :

HON'BLE Mr. JUSTICE K. THANKAPPAN, MEMBER(J)
HON'BLE Mr. C.R. MOHAPATRA, MEMBER(A)

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Laxman @ Laxman Mandia, aged about 62 years, S/o. Late Kubera Mandia, of Vill: Chainpur, P.O. Motari, P.S.: Delanga, Dist: Puri.

.....Applicant

Advocate(s) for the Applicant- M/s. R.K. Samantsinghar, Sanjeet Das,
A.K. Mallik, P.K. Routray.

VERSUS

1. Union of India represented through the General Manager, East Coast Railway, Rail Bihar, Chandrasekharpur, Bhubaneswar, Dist. Khurda.
2. The Divisional Railway Manager, East Coast Railway, Khurda Road Division, At/PO/P.S. -Jatni, Dist. Khurda.
3. The Senior Divisional Personnel Officer, East Coast Railway, Khurda Road Division, AT/PO/PS- Jatni, Dist-Khurda.
4. The Assistant Engineer, (Settl). KUR, Engineering Department, Khurda Road Division, At/PO/PS-Jatani, Dist-Khurda.
5. The Permanent Way Inspector, Office of the P.Way Inspector, Khurda Road Division, East Coast Railway, Khurda Road, At/PO/PS-Jatani, Dist-Khurda..

..... Respondents

Advocates for the Respondents – Mr. D.K. Behera.

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ORDER

MR. JUSTICE K.THANKAPPAN, MEMBER(J):-

The short question involved in this Original Application is with regard to the dates of entry of the applicant in the service and regularization. The case of the applicant is that as per Annexure-A/1 certificate issued by the Section Engineer (P.Way), East Coast Railways, Khurda Road, the applicant was allowed Central Pay Commission (CPC) Scale on 1.8.1987 after having worked as casual labour in different TLR sanctions from 1961 to 1964. The applicant also relies on his letter addressed to the Divisional Railway Manager, East Coast Railway, Khurda Road, a copy of which has been produced at page 12 of the Original Application. But as per the records kept by the Railway authorities, the service of the applicant started as a temporary status employee only on 10.05.1990 and his services have been regularized w.e.f. 2.5.1996. Though the applicant retired on 31.01.2003, he could only know about his service particulars during 2004-2005 and that too, on perusing the certificate issued by the Department showing the qualifying period for pension. Aggrieved by the above stand taken by the Department, the applicant filed this Original Application praying for a direction to

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8

the Respondents to consider his date of entry in service and assignment of temporary status to him as on 1.8.1987 and the services from 1.8.1987 to 10.09.1990 may also be taken into account for allowing pension. Further, it is prayed that Annexure-A/2 and A/3 records kept by the Department regarding the service particulars of the applicant may also be quashed.

2. Denying the claim of the applicant, a counter has been filed for and on behalf of the Respondents. In the counter, the definite stand taken in paragraph-4 is that "considering his past engagement from time to time, the competent authority has conferred upto the temporary status on (CPC) Central Pay Commission Scale to the applicant from 10.05.1990 after due screening. Accordingly, the applicant attained temporary status on 10.05.1990 in Central Pay Commission (CPC) Scale". It is also stated in the counter that as per the Railway Services (Pension) Rules 1993, it is stipulated that "in respect of a Railway servant in service on or after 22nd August, 68, half the service paid from the contingencies shall be taken into account for calculating pensionary benefits on absorption in regular employment. In the Foot Note-2 of Rule-31, it has been stated that 'the expression ABSORPTION IN REGULAR EMPLOYMENT' means absorption against a regular post".

3

3. In the light of the rival contentions raised by the parties, it has to be decided as to whether the applicant is entitled for the relief claimed in the O.A. or not? At the first place, it has to be noted that Annexure-A/1 and the letter alleged to have been sent by the authority, produced at page 12 of the O.A., are not owned by the Respondents. However, in the counter, these documents are not denied to have been issued by the authorities of the Railways. In Annexure-A/1, it is specifically stated by the Section Engineer (P.Way), East Coast Railways, Khurda Road, that the applicant has been assigned CPC Scale on 1.8.1987. In the same manner, in the letter produced at page 12 of the O.A., it is stated that temporary status (CPC) has been assigned to the applicant on 1.8.1987.

4. After perusing Annexures-A/1 and A/2, we find that there is force in the contention of the applicant, and hence it is a matter to be looked into by the Respondents. Though the definite stand of the Respondents is that the applicant is not having required qualifying period for allowing pension, but if the period from 1.8.1987 to 10.05.1990 is taken into consideration, no doubt the applicant is entitled for pension as he will be getting pensionable service. In the above circumstances, we allow this Original Application and direct the Respondents to consider the claim of the applicant and pass appropriate orders thereon as early as possible at




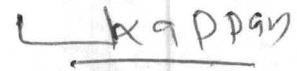
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any rate within 60 days from the date of receipt of a copy of this order.

5. With the above observation and direction, the O.A. is allowed to the extent indicated above. No order as to costs.


(C.R. MOHAPATRA)
MEMBER (ADMN.)


(K. THANKAPPAN)
MEMBER (JUDL.)

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