

O.A. No.614/06

ORDER DATED 18<sup>th</sup> DECEMBER, 2008

Coram:

Hon'ble Shri Justice K. Thankappan, Member (J)

Hon'ble Shri C.R. Mohapatra, Member (A)

Heard Mr. R. K. Samantasinghar, Ld. Counsel for the applicant and Mr. B.K. Mohapatra, Ld. Addl. Standing Counsel for the Respondents.

2. The applicant has filed this Original Application with prayer to direct the Respondents to take into consideration the casual service period and the temporary status period for the purpose of pension and gratuity.

3. It is the case of the applicant that since he was granted CPC scale w.e.f. 05.07.87 and brought over to regular establishment w.e.f. 26.11.89, the total period of service from 26.11.89 to 08.06.94 should have been taken into account for the purpose of pension and gratuity; and this having not been done, the Respondents have acted contrary to Rules.

4. The Respondents, in their counter, have submitted that the applicant was given temporary appointment in the post of Gangman w.e.f. 25.11.89 and his service was regularized w.e.f. 08.06.94. The applicant retired on superannuation w.e.f. 31.07.2000. The applicant having not put in 10 years of regular service is not entitled to pension.

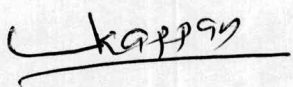


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5. Having regard to the submissions made by the parties, we are of the view that unless and until a casual employee is granted temporary status, he is not entitled for Central Pay Commission Scale. Hence, we are of the view that while allowing the Central Pay Commission Scale to a casual employee, the effective date of granting such CPC scale should have been the date of granting temporary status. In this context, we heard the Ld. Counsel appearing on either side and we, ourselves also calculated on the analogy that the applicant was allowed Central Pay Commission Scale from 03.07.1987 and his service was regularized w.e.f. 08.06.1994. On the above calculation, we are of the view that if half of the entire period of temporary status service is taken into account together with the regular service, it works out to 09 years 07 months and 13 days. If so, as per the extant Rules, the applicant having not completed minimum 10 years regular service, is not at all entitled to pension. Apart from the above, as per the Railway Board's letter F(E) III/90/PNI/34 dated 25.04.90 and 07.06.1993 (for calculating the pensionary period) the Railway Board has laid down a criterion for the purpose of calculating qualifying service, i.e., 09 years 09 months and above at the time of retirement, which shall be treated as 10 years, making one eligible to pension. The applicant having not come within the purview of the above Rules, is not entitled to pension.

6. In view of the above, this Original Application is dismissed as meritless. No costs.

  
Member (A)

  
MEMBER (J)