

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH

O.A.NO.571 OF 2002

Cuttack, this the 12th day of May, 2005

Shri Sukadev Barik

.....

Applicant

Vrs.

Union of India and others

.....

Respondents

FOR INSTRUCTIONS

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


(B.N.SOM)
VICE-CHAIRMAN

10

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH

O.A.NO.571 OF 2002

Cuttack, this the 24 day of May, 2005

CORAM:

HON'BLE SHRI B.N.SOM, VICE-CHAIRMAN

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Shri Sukadev Barik, aged about 61 years, son of late Anama Barik, retired as Sr.Track Man under PWI/BHC at present residing at Kenduapada, P.O.Kenduapada, Dist.Bhadrak

..... Applicant

Advocates for the applicant- Mr. Achintya Das

Versus

1. Union of India, represented through General Manager, S.E.Railway, Garden Reach, Kolkata 43.
2. Member Staff, Railway Board, Rail Bhavan, New Delhi.
3. Divisional Railway Manager, S.E.Railway, Khurda Road, P.O.Jatni, Dist.Khurda PIN 752050
4. Assistant Engineer, S.E.Railway, Jajpur Keonjhar Road, P.O. Jajpur Keonjhar Road Railway Station, Dist.Jajpur

..... Respondents

Advocates for the Respondents- M/s.B.Pal, A.Pal and
B.K.Bal

2

ORDER

SHRI B.N.SOM, VICE-CHAIRMAN

1. Shri Sukadev Barik has filed this Original Application praying for a direction to be issued to the Respondents to grant him retrial benefits including superannuation pension and to pay him arrears of pension from the month of November 2001 when superannuation pension was due to him.

2. The facts of the case, in a nutshell, are that the applicant, after working as Casual Labourer in short spells from 1963 to 23.10.1989, was sent for medical examination to regularize his service in the Railways and was absorbed in regular employment from 11.5.1990. He retired with effect from 31.10.2001 on attaining the age of superannuation. Since then he has been representing to the Respondents for monthly pension, but without any success. His claim is that he has put in 11 years 5 months of regular service and is entitled to superannuation pension.

2

3. The Respondents have stoutly opposed the Original Application. IN the counter they have taken the position that the applicant was appointed as CPC Gangman with effect form 7.7.1987 and retrenched thereafter. Then he was re-employed with effect from 11.5.1990 having temporary status up to 4.9.1994. He was regularized in service with effect from 5.9.1994 and confirmed with effect from 5.9.1995. He was promoted to the post of Sr.Gangman with effect from 4.7.1997 and finally retired from service with effect from 31.10.2001. The Respondents have stated that the applicant was entitled to count qualifying pensionable service from 5.9.1994to 31.10.2001, i.e, 07 years 01 month and 27 days and 50% of the period of casual service with temporary status from 11.5.1990 to 4.9.1994, i.e., 3 years, 1 month and 26 days. Thus he had put in all 9 years, 3 months and 23 days of qualifying service. As this period fell short of 10 years of minimum service for pension, he is not entitled to pension and is entitled to Service Gratuity. They have also refuted the claim

4

13

of the applicant that he had put in 18 ½ years of service on the basis of records available with them.

4. I have heard the learned counsel for the rival parties and perused the records placed before me.

5. The short point for answer in this case is the length of qualifying service for grant of superannuation pension to the applicant. The Respondents have stated that the applicant started his casual service with temporary service from July 11.5.1990 to 4.9.1994 and had regular service from 5.9.1994 to 31.10.2001. On the other hand, the applicant has claimed that he had regular service from 11.5.1990 which lasted up to 31.10.2001, which makes 11 years 5 months regular pensionable service. Prior to that he had worked in short spells, i.e., less than 90 days, from 1963 to 1966 and in different other spells from July 1986 to November 1986, from July 1987 to October 1987, from June 1988 to October 1988, and from June 1989 to October 1989. The Respondents have admitted that the applicant had worked as Casual Gangman on daily wage basis. However,

4

the Respondents have preferred not to answer the averment made by the applicant at paragraph 4.8 that for his regular absorption in the Railways he was sent for medical examination by the Senior Divisional Medical Officer, Khurda Road, who had granted him the requisite certificate (Annexure A/7) on 1.11.1989. In other words, the Respondents have not disputed that the applicant was medically examined for regularization against a permanent post on 1.11.1989. IN order to resolve the matter, I had called for the Service Book of the applicant. From a perusal of the Service Book I find from page 9 thereof that the applicant was examined on 1.11.1989 by the Senior Divisional Medical Officer, Khurda Road. Then at page 12 of the Service Book his date of appointment in Railway service is shown as 11.5.1990 and the date of retirement as 31.10.2001. Thus, the total period of Railway service has been shown as 11 years, 5 months and 20 days. The said page of the Service Book is duly signed by the authorized officer on behalf of the Senior Divisional Accounts Officer. At

6

page 10 of the Service Book it is clear that his pay on initial appointment as CPC Gangman was fixed at Rs.775/- and then with effect from 1.5.1991 his pay was raised to Rs.787/-. Thus, from the records of service particulars appearing at pages 10 and 12, it is clear that the regular service of the applicant in the Railways started from 11.5.1990. As these are the records of service, which have been signed and audited, it is not understood how the Respondents had taken a position in the counter to bring down his qualifying service for pension to 9 years, 3 months and 23 days. On the basis of the entries in the Service Book, the averment made by the Respondents in their counter has to be struck down and the O.A. must succeed. I accordingly order that the applicant having been appointed on regular basis with effect from 11.5.1990 and having served for more than 10 years before his superannuation on 31.10.2001, is entitled to superannuation pension. He is entitled to count 50% of his service with temporary status for the purpose of pension. The Respondents are, therefore, directed to

7

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calculate the amount of pension and pay it to the applicant as per rules laid down in the Pension Rules.

6. The Original Application is allowed. No costs.



(B.N.SOM)
VICE-CHAIRMAN