

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

O.A. No. 19/07

Order dated: 7<sup>th</sup> August, 2008.

Alleging non-payment of retirement dues by calculating his period of casual service in the Railway w.e.f. 24.01.1964 to 01.04.1973 for the purpose of counting the full qualifying service of 33 years as also due to improper calculation of his leave account, the Applicant, has approached this Tribunal in the present Original Application filed U/s.19 of the Administrative Tribunals Act, 1985. He has sought the following relief:

- "(i) direct the respondent 2 & 3 to consider the applicant's case properly and to make payment of all arrear dues within a specific period of time;
- (ii) Direct the Respondent 2 & 3 for payment of interest and compensation for willful and deliberate negligence causing harassment to the Applicant."

2. A counter has been filed by the Respondents stating therein that all the retirement dues, to which the Applicant is entitled to as per Rules inasmuch as by calculating his service from the date of grant of PCR status/01.04.1973 till his retirement/31.01.2002 have been calculated and already paid to him. There are no other dues of the Applicant lying with the Department. According to Respondents, which is not disputed by the Applicant following dues have been paid to the Applicant:

- |       |  |      |              |
|-------|--|------|--------------|
| (i)   | Composite Transfer grant   | ...  | Rs.2,988/-   |
| (ii)  | CGEGIS   | .... | Rs.7691/-    |
| (iii) | Leave salary for 132 days  | .... | Rs. 21,182/- |
| (iv)  | Revised leave salary<br>(due to grant of ACP)  | .... | Rs. 3,207/-  |
| (v)   | Differential arrear salary on account of up-gradation of pay<br>under ACP retrospectively w.e.f. 01.12.1999. |      |              |
| (vi)  | Gratuity and pension as per Rules.   |      |              |

Further the Respondents have stated that there is no rule for calculating the casual period of service of the Applicant from 1964 to 1973. Accordingly, the Respondents have prayed for dismissal of this OA. A rejoinder



has also been filed by the Applicant reiterating the contention already raised in the OA.

4. Heard Learned Counsel for both sides and perused the materials placed on record. Except the bald contention, no rule or executive instruction has been placed by the Applicant substantiating his stand that the casual period of service from 1964 till grant of CPC status/01.04.1973 ought to have been taken into consideration by the Respondents for the purpose of service benefits/counting the qualifying service for the purpose of pension. As such, in absence of any such rulings, it is held that this submission of the Applicant is not sustainable.

5. Next submission of the Applicant is that he is entitled to 240 days leave salary instead of 132 days and gratuity for 14  $\frac{1}{2}$  months instead of 12 months even by taking into consideration the period of service of Applicant from 1973 till retirement. But due to wrong calculation, the Applicant has been sanctioned and paid both towards leave salary and gratuity less than what he was entitled to.

6. In this context, it is pointed out that calculation of leave salary is based on record. Similarly, so far as gratuity is concerned, the same can be calculated, as per rules, based on the qualifying years of service. Applicant was working as Khalasi in the Railway. He retired from service in the year 2002 and is now 64 years old. The contention made in the counter filed by the Respondents does not support any documents/rules as to how it was determined that the Applicant is only having 132 days leave to his credit as also in regard to the determination of 12 months gratuity as the entitlement of the Applicant. In view of this it is difficult to quantify the entitlements of the Applicant.

7. Considering the circumstances stated above, this OA is disposed of with direction to the Respondents 2 & 3 to communicate to the Applicant the detailed particulars with supporting documents showing the leave standing at his credit, at the time of his retirement and as to how it has been determined that the Applicant is entitled to 12 months gratuity. This exercise shall be



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completed within a period of 60 days from the date of receipt of a copy of this order. No costs.

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

KNM/PS.

