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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No.274 of 2007
Cuttack, this the 06th day of April, 2009

Pabitra Mohan Dora Applicant
Versus
Union of India & Ors. Respondents

FOR INSTRUCTIONS

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

(JUSTICE K. THANKAPPAN)
MEMBER (JUDICIAL)

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

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
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O.A.No.274 of 2007
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C O R A M:

THE HON'BLE MR.JUSTICE K.THANKAPPAN, MEMBER (J)

A N D

THE HON'BLE MR. C.R.MOHAPATRA, MEMBER (A)

Pabitra Mohan Dora, aged about 60 years, son of Late Dasarathi Dora, At-Taratua (Nuasahi), Po-Taratua, Dist. Khurda.

.....Applicant

By Advocate : M/s.Abhaya Kumar Sharma, S. Behera
- Versus -

1. Union of India represented through the General Manager East Coat Railway, Rail Vihar, Chandrasekharpur, Bhubaneswar 23, Dist. Khurda.
2. Divisional Railway Manager, East Coast Railway, Khurda Road, At/Po/Ps/District-Khurda.
3. Senior Divisional Personnel Officer, East Coast Railway, Khurda Road, At/Po/Ps.Jatni, Dist. Khurda.
4. Section Engineer (Signal), Jajpur Keonjhar Road, East Coast Railway, At/Po-Jajpur Road, Dist.Jajpur.
5. FA & CAO (Pension), East Coast Railway, Chandrasekharpur, Bhubaneswar, Dist. Khurda.

....Respondents

By Advocate - Ms.S.L.Patnaik.

O R D E R

Per- MR.C.R.MOHAPATRA, MEMBER (A):-

Applicant a retired Railway employee by filing this Original Application, on 21st May, 2007 virtually seeks for a direction to the Respondents to count his casual period of

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service w.e.f. 06.02.1967 to 11.1.1981 for the purpose of grant of his pension and pensionary benefits.

2. By filing counter, the Respondents vehemently opposed the stand of the Applicant. In support of their stand it has been stated in the counter that the applicant was appointed as Project Casual Khalasi in construction Organization on 06.02.1967. Pursuant to the order No.E/CLR/A/481 of DSTE, Works, Khurda dated 15.4.1972, he was retrenched w.e.f. 23.4.1972. Again he was engaged as casual khalasi in the said construction organization on 25.12.1973 and continued upto 6.11.1983. Once again he was appointed as Electric Signal Maintainer Grade III (ESM-III) on 08.12.1983 in Open Line and posted at Jajpur Road station in terms of the Office order dated 08.12.1982 of the Personnel Officer, Khurda . Further stand of the Respondents in their counter is that meantime, as a matter of policy it was decided by the Railway Board vide Estt.Serial No. 107/84 (Annexure-R/1) that Project Casual Labourers who have completed five years of service as on 1.1.1984 should be conferred with temporary status with effect from 1.1.1984 and those who have completed less than five years but more than three years should be given temporary status w.e.f. 1.1.1985.

Soon after the above vide Estt.Srl.No.187/86 (Annexure-R/2) it was informed by the Railway Board that casual labourers who have completed five years of service as on 1.1.1981 should be conferred with temporary status w.e.f. 1.1.1981. As the Applicant had completed more than five years of service as on 1.1.1981 was conferred with temporary status w.e.f. 1.1.1981 vide order dated 05.03.1991 in the pay scale of Rs.196-232. Thereafter his pay was fixed in the grade of ESM III at Rs.260 in the scale of pay of Rs.260-400/- w.e.f. 5.10.1981. He was promoted to the post of ESM Grade II in the scale of Rs.1200-1800/- w.e.f. 24.11.1993 and thereafter to the post of ESM Grade I in the scale of pay of Rs.4500-7000/-(RSRP) w.e.f. 15.11.2002 and finally he retired from service w.e.f. 28.2.2007. Accordingly, by counting the service of the applicant w.e.f. 1.1.1981 he was sanctioned pension and pensionary benefits which need no interference. With the above, it has been stated by the Respondents that this OA sans any merit and is liable to be dismissed.

3. The Applicant has placed no unimpeachable material contrary to the stand of the Respondents to enable this Tribunal to disbelieve the stand of the Respondents except stating that



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since his case is covered by the decision of this Tribunal rendered in the case of Kandan v Union of India and others in OA No. 605 of 1992 disposed of on 29.3.1993 he is entitled to count the entire period of his service for the purpose of grant of pension and pensionary benefits.

4. Heard Learned Counsel for both sides and perused the materials placed on record.
5. Neither of the parties have produced any piece of evidence or averred anywhere in their pleadings as to when the applicant got regularized.
6. Similarly, neither in this Original Application nor by filing separate MA as provided in the rules/law, the Applicant has explained the delay in approaching this Tribunal. He got the cause of action when he was conferred with temporary status to be followed by regularization. But he slept over the matter. He also did not approach soon after the decision dated 29.3.1993 of this Tribunal in another OA No.605 of 1992 (Kandan v Union of India and others) relating to some other employee which he claims fully covers his case. The well settled principle of law is that law helps vigilant not indolent. He whoever sleeps over his

right cannot be allowed to agitate their grievance after many years without sufficient explanation for such delay. The Applicant is one of such persons who come under the category of indolent person and, therefore, he is not entitled to any of the reliefs claimed in this OA.

7. Besides the above, by now it is well settled law of the Hon'ble Apex Court in the case of **General Manager, North West Railway and others v Chanda Devi**, (2008) 1 SCC (L&S) 399 that casual labourer is not entitled to more than what has been provided in the Rules of the Railways.

8. In view of the above, we find no justification to annul the decision of the Railways in counting the service of the Applicant with effect from 1.1.1981 for the purpose of grant of pension and pensionary benefits to the Applicant. Hence, this OA stands dismissed. No costs.

Kappan
(JUSTICE K. THANKAPPAN)
MEMBER (JUDICIAL)

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