

Jaladhar & Jaladhar Satrusalya .... Applicant  
Versus  
UOI & Ors. .... Respondents

1. Order dated 26<sup>th</sup> August, 2009.

C O R A M

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

Applicant is a retired Gangman of the Railway. By filing this Original Application he seeks direction to the Respondents to compute 50% of temporary status period w.e.f. 22.11.1987 as qualifying service for grant of minimum pension instead of 21.06.1990 and accordingly direct the Respondents to release the arrears pension of the Applicant with 12% interest per annum.

2. In the counter, it has been stated by the Respondents that the applicant was admitted to CPC scale of pay from 24.7.1987 as temporary casual gangman. Thereafter his service was discontinued. Continuity of service was granted to him w.e.f. 21.6.1990 and accordingly, he was conferred with temporary status on 21.6.1990 in CPC scale and continued as CPC gangman upto 23.7.1996. After completion of one year of service from 21.6.1990 he was granted annual increment @ Rs.12/- in scale of Rs.775-1025/- w.e.f. 1.6.1991. He was not granted any annual increment from 24.7.1987 till 1990. He was regularized as Jr. Gangman w.e.f. 24.7.1996 and finally retired from service on 28.2.2002.

In term of Estt. Srl.No.239/80, Applicant was entitled to count 50% of the service from the date of temporary status till regularization and 100% from the date of regularization till retirement for the purpose of qualifying service for pension and one is entitled to pension, if he/she has 10 years minimum qualifying service to the credit. Since the total period of qualifying service of the Applicant came to only 8 years 4 months and 21 days he was not rightly sanctioned the pension after his retirement. The breakup of the period of service given in the counter is as under:

		Yr	Mon.	Days
1.	Total length of service rendered By the applicant from 21.6.90 to 28.2.2002	11	08	07
2.	Less 50% of Ty. Status from 21.6.90 to 23.7.96	(-) 03	00	16
	Less non-qualifying service Due to absence etc.	(-) 00	03	00
	Total qualifying service	08	04	21

3. Heard Mr. N.R.Routray, Learned Counsel for the Applicant and Mr. S.K.Ojha, Learned Standing Counsel for the Respondents and perused the documents placed on record including the service book of the applicant produced by Mr.Ojha on the direction of this Tribunal.

4. Learned Counsel for the Applicant disputed the calculation of the period furnished by the Respondents in their counter. It was stated that the Respondents erroneously deducted the temporary status

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period of the applicant from 24.07.1987. Had that period been taken into consideration, the applicant would have been entitled to pension for sustenance after his retirement. It was emphatically submitted by him that the applicant has been continuously working with effect from the date of his temporary status. But it is not understood as to why he was not allowed the annual increment for the period from 1987 till 1990. It has been stated that as the applicant is illiterate and was working in the field being ignorant did not make any objection at that relevant point of time. Learned Counsel for the Respondents objected by stating that the Respondents cannot act beyond the records. Since the record disclosed that the applicant had been in continuous engagement after temporary status only w.e.f. 1990 and regularized in 1996, accordingly in term of the existing rules the period of qualifying service of the applicant was counted and as this was short of the period so as to entitle a retired employee to get the pension, no pension was sanctioned in favour of the applicant.

5. To find out the truth regarding the date of temporary status, service book of the applicant was directed to be produced and accordingly Learned Counsel for the Respondents produced the service book today. In the service book the date of admission to CPC by the applicant is shown as 24.07.1987. That the date of admission to CPC scale is the date of conferment of

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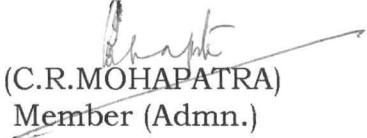
temporary status on a casual labour is not in dispute. It is also not in dispute that a temporary status employee is entitled to all privileges as is granted to a regular employee of the Railway. As such, if the applicant was admitted to CPC scale w.e.f. 24.7.1987 normally he would have been entitled to annual increment after completion of one year i.e. w.e.f. July, 1988. But surprisingly, it is seen that he was granted the next annual increment only w.e.f. 21.6.1991. At page 15 of the service book the date of temporary status has been shown as 24.7.1987 and the place of work of the applicant has been mentioned as CPWI, Cuttack. Thereafter it has been mentioned that "continue service from 21.6.1990". This has been certified by the CPWI, S.E.Railway, Berhampur. At page 16 & 17 of the service book, the entry established that the applicant while working under the Engg. Department at Cuttack was medically examined on 28.9.1989 and was found fit in B/1. In the absence of the reason for omission of entry from 1987 to 1990 either in the counter or in the service book, and in view of the specific stand of the applicant that he was in continuous service from 1987 it is difficult for this Tribunal to come to any positive conclusion in regard to the calculation of the period of service of the applicant in either way.

6. In view of the above and in view of the fact that it is a claim of entitlement of pension, ends of justice would be met if this Original Application is disposed of

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with direction to the Respondents to make a thorough investigation into the records to find out the position of the applicant for the period from 1987 to 1990 and consider the entitlement of the applicant on the result of such investigation and then pass a reasoned order and communicate the same to the Applicant. The entire exercise shall be completed within a period of 60 days from the date of receipt of this order. Ordered accordingly.

No costs.

  
(C.R. MOHAPATRA)  
Member (Admn.)