

O.A. No. 295 of 2008

Order dated: 25.11.2009

CORAM:

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

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

Heard Mr. R.K. Samantsinghar, Ld. Counsel for
the applicant and Mr. T.Rath, Ld. Counsel for the
Respondents.

2. The applicant has filed this O.A. with the
following prayers:

“...to allow the prayer for
sanction of leave dues and privilege
passes to the applicant on the basis of
correct calculation of qualifying service
and further if necessary, this Hon'ble
Tribunal quash Annexure-A/4 and direct
to calculate the qualifying service from
3.7.1981 till retirement instead of
11.12.1986, to 31.5.2005.....”

3. Pleadings for the above prayer have been taken
in paragraph 5.2, 5.3 and 5.4 of the O.A., which would show
that the applicant has already accepted the service records at
the time of his retirement and subsequently he has found that
there is a wrong entry regarding his first appointment, and
without taking any step for correction of such entry of date
of his appointment, he has approached this Tribunal for the
relief referred to above.



4. In pursuance to the notice ordered, a counter statement has been filed by the Respondent-Railways denying the claim of the applicant that he entered in service or was appointed on 3.7.1981. The Respondents have stated in para-4 of the counter that the applicant was engaged as Substitute Shed Khalasi on 11.12.1986 and while continuing as such he was granted temporary status on 10.4.1987. Thereafter the applicant was regularized as Khalasi w.e.f. 07.06.1988.

6. After the receipt of the counter affidavit, the applicant has also filed a rejoinder, in which it is stated that Respondents have admitted and submitted in their counter that the date of initial appointment of the applicant was wrongly mentioned in the Service Record as 3.7.1981 and the same has been rectified as 11.12.1986, which would show that somebody purposefully corrected the date of entry into service as 11.12.1986 instead of 3.7.1981.

7. We have considered the above plea of the applicant in extenso in the light of counter affidavit and we see that nothing is stated in counter affidavit that there is a wrong entry of his date of appointment. But we note from the Service Book of the applicant that his initial appointment




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was on 11.12.1986 as it is mentioned at page 11 of the Service Record. The applicant never questioned the said entry in the service record till the date of his retirement on superannuation. The pleadings of the applicant do not show that anybody purposefully corrected date of his entry in service and as to who is responsible for the said entry. The only stand taken in the pleadings is that it was done by the Department. The statement in the rejoinder that the Respondents have admitted the said wrong entry, is not supported by any material. In the counter it has been rather specifically stated that the applicant was engaged as Substitute Shed Khalasi on 11.12.1986. This statement of the Respondents has not been refuted by the applicant in the rejoinder. No contemporaneous document has also been produced by the applicant showing that he was initially appointed as Substitute Shed Khalasi w.e.f. 3.7.1981

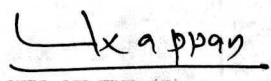
8. In this view of the matter, we hold that the applicant has not been able to prove that the date of his initial appointment was 3.7.1981 and the determination of his entitlements was wrong. Therefore, the O.A. is devoid of merit.



9. However, we observe that if the applicant has got any case that there was any wrong entry in his Service Record made by anybody, he may file a representation before the Respondent No.2 for causing an inquiry to be made to find out as to whether anybody has intentionally and deliberately made any wrong entry in the Service Record of the applicant and for proceeding against the officer/official responsible for the same. Such representation may be filed within one month from today before the DRM (Respondent No.2), who shall cause an inquiry to be made in the matter and take a final decision on the above said representation within a period of 3 (three) months from the date of receipt of the said representation. It is also made clear that in such representation, the document or any record to show that his pleading is correct shall also be furnished by the applicant.

10. With the above observation and direction, the O.A. stands disposed of. No costs.


MEMBER (A)


MEMBER (J)