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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK**

O.A.No. 926 of 2010
Cuttack, this the 26th day of March, 2014

CORAM
THE HON'BLE MR.A.K.PATNAIK, MEMBER (JUDL.)
THE HON'BLE MR.R.C.MISRA, MEMBER ADMN.)

.....
Gaurahari Panigrahi, aged about 67 years, S/o. Subudhi Panigrahi, Ex-Khalasi Helper, East Coast Railway, at present At/Po.Dumriput, Ps-Sunabeda, Dist. Koraput.

.....Applicant

(Legal Practitioner:-M/s.B.N.Udgata, S.M.Singh, C.K.Jena)

Versus

1. Union of India represented though its Secretary, Ministry of Railway, Rail Bhawan, New Delhi.
2. General Manager, East Coast Railway, At/Po.Chandrasekharpur, Bhubaneswar, Dist. Khurda.
3. Divisional Railway Manager, East Coast Railway Division, Waltair, At/Po.Waltair State-Andhra Pradesh.
4. Divisional Personnel Officer, East Coast Railway Division, Waltair, At/Po.Waltair State Andhra Pradesh.
5. Divisional Railway Manager, East Coast Railway Division, Chandrasekharpur, Bhubaneswar, Dist. Khurda, State-Odisha.

.....Respondents

(Legal practitioner: Mr.S.K.Ojha)

O R D E R

A.K.PATNAIK, MEMBER (JUDICIAL):

The Applicant while working in the Railway as A Khalasi Helper retired from service on reaching the age of superannuation w.e.f. 30.09.2004. Alleging inaction to release pension and pensionary dues in his favour despite repeated representations, he has filed this Original

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Application praying for a direction to the Respondents to pay him pension and pensionary benefits as per rules with interest.

2. Respondents have filed their counter in which it has been stated that they are not at fault or callous in any manner as alleged by the applicant in so far as releasing the pension and pensionary benefits in his favour. The sum and substance of the case of the Respondents is that one is entitled to minimum pension provided he/she has rendered 10(ten) years of qualifying service whereas in the case in hand, the applicant had put in only 09 years 08 months and 07 days of qualifying service. It has also been stated that as per the Rules, the applicant would have been entitled to minimum pension by applying the rounding up principle of ten years qualifying service had he completed 09 years, 09 months of service which he having not done is not entitled to the relief as claimed in this OA. On the above grounds, Respondents have prayed for dismissal of this OA.

3. Learned Counsel appearing for the Applicant drew our attention to the calculation sheet filed by the Respondents to submit that respondents arrived at a conclusion by calculating the qualifying service in a wrong notion de hors the rules as they have treated the period of absence as non qualifying service and excluded the said period from the period of service of temporary service which is not permissible in the eyes of law. On the other hand Mr.S.K.Ojha, Learned panel counsel for the railway-respondents denied the arguments advanced by the learned counsel for the Applicant and



submitted that the Respondents has calculated the period of service in the manner provided in the rules which in no circumstances can be said to be wrong in any manner. Hence by reiterating the stand taken in counter Mr.Ojha has prayed for dismissal of this OA.

4. Having considered the rival submissions, we have perused the records. We may state that it is one thing to say that a statute provides for completion of ten years or 09 years and 09 months of qualifying service but if a provision provides for calculation of the period the same cannot be lost sight of. The rules or provisions which are beneficial in nature should be construed liberally. Thus the construction of qualifying service must ordinarily be kept confined to the service rendered while on duty and one may be in ^{ice} service even otherwise although not rendering any duty. According to the Respondents, applicant was conferred with temporary status on 19.11.1990 and regularized on 01.01.1998. He retired from service on 30.09.2004. As per the Rules, 50% of service would be counted towards qualifying service. Therefore, even if the stand of the Respondents is taken into consideration according to us the qualifying period of service of the applicant comes to 09 years 11 months ~~and 16 days~~ as per the details given herein below:

(i) Temporary status period
19.11.1990 to 31.12.1997 = 07 years 01 months 12 days

(-)-Absent & non qualifying period = 05 months 16 days
Total Ty status period = 06 years 07 months 26 days

(ii) Regular Service

Ans

01.01.1998 to 30.09.2004	=06 years 08 months 29 days
(-)Nonqualifying service	= 01 months 27 days
Regular qualifying service	=06 years 07 months 02 days
(iii) Total qualifying service (50% ty status)	=03 years 03 months 28 days
(iv) Regular Service	=06 years 07 months 02 days
(v) TOTAL QUALIFYING PERIOD	=09 years 10 months 30 days (Or say 9 years 11 months)

5. In view of the above the qualifying period of service calculated by the Respondents appears to be wrong and no provision has been produced based on which they have reached the calculated period and the conclusion. Hence we hold that as the applicant has acquired the **qualifying service of 09 years 10 months 30 days (or say 9 years 11 months)** by applying the rounding up principle, as provided in the Rules, he is entitled to minimum pension and pensionary benefits. It is trite law that pension payable to employees of Govt. is not a charity or bounty dependent on the sweet will of the employer as was thought during British days, but is a deferred portion of compensation for past service of the employees. Therefore, Respondents are hereby directed to collect the pension paper of the applicant by deputing the Welfare Inspector within a period of one month from the date of receipt of copy of this order and do the needful for releasing the pension and other pensionary benefits in favour of the applicant in all respects, within a period of 60 (sixty) days from the date of collection of the pension paper from the



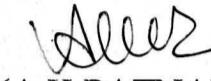
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applicant. In the result, for the discussions made above, this OA stands allowed to the extent stated above. There shall be no order as to costs.


(R.C.MISRA)
Member (Admn.)


(A.K.PATNAIK)
Member (Judicial)

