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R.Pradhan vs. UOI

PRONOUNCEMENT OF ORDER SL.NO.

OA 66/11(SB)

By Advocate-

By Advocate-

Date-1.5.2013

CORAM

HON'BLE SHRI R.C.MISRA, MEMBER(A)

Order is pronounced in the Open Court. For the reasons recorded therein,
the O.A. is dismissed. No costs.



MEMBER(A)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A. NO. 66 OF 2011
Cuttack this the 1st day of May, 2013

CORAM

HON'BLE SHRI R.C.MISRA, MEMBER(A)

Rajan @ Rajan Pradha, aged about 83 years, Son of late Gopal @ Gopal Pradhan,
resident of Bachharapatna, PO/PS-Jatni, District-Puri

...Applicant

By the Advocate(s)-Mr.S.S.Das
K.Ch.Mohapatra

-VERSUS-

Union of India represented through

1. The Divisional Railway Manager (P), East Coast Railways, Khurda Road,
At/PO.PS-Khurda Road
2. Divisional Personnel Officer, East Coast Railways, Khurda Road Division,
At/PO/PS-Khurda Road, District-Khurda

...Respondents

By the Advocate(s) -Mr.R.N.Pal

ORDER

HON'BLE SHRI R.C.MISRA, MEMBER(A)

Applicant, in this case has approached this Tribunal with a prayer for sanction of pension and family pension by the authorities of the East Coast Railways. He has challenged the communication dated 14.3.2006 received by him from the Divisional Railway Manager (Personnel), Khurda Road, in which it has been communicated that since he did not have the requisite period of qualifying service to get monthly pension/family pension, he is not entitled for ex gratia family pension as per his claim.

2. The facts as narrated in this Original Application are that the applicant was working in the post of Khalasi on casual basis since 24.2.1070 in the ~~erstwhile~~ ^{erstwhile} S.E.Railways and he performed such duties till 24.7.1986. Thereafter, he was brought in to the regular establishment and was superannuated on 31.1.1987. He has been already paid his service gratuity and Death-cum-Retirement Gratuity (in short DCRG). Then he approached the authorities with a prayer for grant of the benefit of monthly pension as well as family pension. His representation was not considered for a very long period. However, finally, the concerned authorities

disposed of his representation vide their letter dated 14.3.2006(Annexure-3² to the O.A). In this communication his prayer for monthly pension/family pension/ex gratia family pension was rejected by the authorities. It was communicated in this letter that the applicant had rendered only eight years three months and fourteen days of qualifying service as on his date of superannuation, i.e., 31.1.1987. The requisite period of qualifying service of 10 years having not been completed, the applicant was not entitled to relief claimed by him. This order is the subject matter of challenge in this Original Application.

3. The applicant claims that by the time he retired from service, he had put in 16 years and 11 months of continuous service against a substantive post. It was, therefore, erroneous on the part of the Respondents to have computed the period of qualifying service as less than 10 years.

4. In the counter affidavit filed by the Respondents, it has been averred that the applicant got his Temporary Status with effect from 24.12.1970, the date from which he was admitted to the authorized scale of pay. Again, he was reverted to the post of temporary Khalasi and while working as such, he was medically

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examined and declared fit by the Assistant Divisional Medical Officer and was, thereafter posted on regular basis against the permanent post of Khalasi with effect from 25.7.1986 and his service was confirmed as Khalasi on 1.11.1986. While working as such, he retired from Railways service on 31.1.1987 on attaining the age of superannuation. The calculation of qualifying service of the applicant was made by considering his temporary/casual service with effect from 24.12.1970 and regular service with effect from 25.7.1986 till the date of superannuation, i.e. 31.1.1987, keeping in view the relevant provisions of Railway Services (Pension) Rules, 1993. 50% of casual service on authorized scale was computed from the date of attaining temporary status, i.e., 24.12.1970 to the date preceding to the date of regularization, i.e., 24.7.1986, as per rules and therefore, the total period of qualifying service was calculated as eight years three months and twenty-two days. In the counter also, it has been mentioned that Rule-³¹~~34~~ of Railway Services (Pension) Rules, 1993, stipulates that in respect of the Railway Servants in service, on or after 22.8.19⁶⁸~~86~~, 50% of the service paid from contingency shall be taken into account for calculating pensionary benefits

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on absorption in regular appointment. In the Foot Note ²²(1) of Rule 31, it has been stipulated that the expression "absorption in regular employment" means – absorption against a regular post. At Annexure-R/2, the Respondents have also filed a copy of Rule-31 of Railway Services (Pension) Rules, 1993 in support of their arguments.

5. Following up this argument, the Respondents in their counter affidavit have also stated that Rule-69(1) of Railway Services (Pension) Rules, 1993, makes a mention of the qualifying service of 10 years and further provides that in case the railway servant has retired before completing qualifying service of 10 years, he will be entitled to be paid his service gratuity in lieu of monthly pension. In the counter, it has been further mentioned that in earlier cases also this Tribunal had dismissed similar prayers in which 10 years qualifying service till the date of superannuation was not available. On the basis of above arguments, the Respondents have prayed that this O.A. is devoid of merit since the applicant did not possess the required period of qualifying service to be entitled to payment of monthly pension/family pension.



6. In course of hearing of this matter, the learned counsel for the applicant could not produce any further record to establish that he possessed qualifying period of service of 10 years in the Railways for entitlement to monthly pension. The learned counsel for the applicant fairly admitted that according to current rules prevalent in the Railways under the Railway Services (Pension) Rules, 1993, the computation has been correctly made. The learned counsel for the Respondents reiterated the various points which have been adduced in the counter affidavit.

7. In view of the above, I do not find any substance or merit in this Original Applicant regarding entitlement of the applicant to monthly pension/family pension as per the extant Rules of the Railways. The admitted position is that the applicant had received his service gratuity and also DCRG. In the absence of any merit, the O.A. is dismissed. There is no order as to costs.


(R.C.MISRA)
MEMBER(A)