

14
CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A No. 607 of 2009

Kanaka Sahoo Applicant

Vs

UOI & Ors. Respondents

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Order dated - 21.7.2011.

CORAM:

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

AND

THE HON'BLE MR.A.K.PATNAIK, MEMBER (JUDL.)

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It is not in dispute that the Applicant is the widow being the W/o. Late Akura @ Akura Sahoo, who died while in service of the Railway on 17.7.2000.

2. It is the case of the Applicant that in Annexure-A/1, the Respondents decided to ante date the date of regularization of the casual labourers fulfilling the conditions mentioned therein to 01.04.1973. According to the Applicant in compliance of the order under Annexure-A/1 the Respondents antedated the date of regularization of her husband to 1.4.1973. In Annexure-A/7 the Respondents issued order for payment of arrears consequent to antedating the date of regularization to all the PCR staffs. As the husband of the applicant was no more, on the strength of the order under Annexure-A/2 and A/3 the applicant submitted representation in Annexure-A/8 dated 23.3.2009 seeking the

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arrear salary consequent to the antedating of the date of regularization of her husband to 1.4.1973. Alleging no action, the applicant has approached this Tribunal in the present OA seeking direction to the Respondents to pay her the differential arrear salary consequent to antedating the date of regularization of her husband to 1.4.1973.

3. In the counter, besides the point of limitation it has been averred by the Respondents that the applicant is not entitled to the relief claimed in this OA as the Service Book of the husband of the applicant shows that he was appointed in the Railway on 28.7.1978. He was never engaged in the Railway on or before 28.7.1978 nor his service had ever been regularized or antedated to 1.4.1973. On the above ground the Respondents have opposed the prayer of the applicant.

4. In enclosing copies of some documents as Annexure-A/10 to prove that the husband of the applicant was in engagement in the Railway as on 1.4.1973, it has been stated that the husband of the applicant was initially engaged as a casual Khalasi under IOW/D/Kalupadaghat, S.E. Railway under the control of the then DEN (MYD), S.E. Railway now Deputy CE (Con), East Coast Railway, Waltair w.e.f. 26.2.1988 and continued there till 24.9.1970. Again he worked from 24.9.1970 to 23.3.1971

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16
under the IOW/D/Kur, under PWI/C/Kur from 24.4.1971 to 23.1.1976, under PWI/C/Kur from 24.1.1976 to 01.02.1978 and retrenched from casual service on 01.02.1978. Accordingly while disputing the stand taken by the Respondents in their counter in regard to the engagement of the applicant from 1973, applicant by referring to the order under Annexure-A/2, A/3 and A/9 has reiterated her stand and prayed for grant of the relief claimed in this OA.

5. It was contended by Learned Counsel for the Applicant that being aggrieved by the non-payment of the arrears consequent to antedating the date of regularization, some of the employees like that of the husband of the applicant approached this Tribunal in OA No. 603/1998, 340/2000 and 153/2004. This Tribunal allowed the prayer of the said applicants and thereafter they have been paid their rightful dues of arrears. But a step motherly attitude has been shown to the case of the husband of the applicant. This was controverted by the Respondents' counsel by stating that in those cases the engagement of the applicants therein might not have been in dispute. But as the date of engagement of the applicant's husband is in dispute the applicant is not entitled to the relief claimed in this OA.

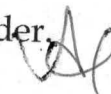
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24
6. We have considered the rival submissions of the parties and perused the materials placed on record. In so far as the delay and laches are concerned, we may record that it is well settled law that payment of salary is a recurring cause of action and the present claim of arrear salary was due to the reason of antedating the date of regularization of the husband at a later date. Hence this case does not fall within the scope and ambit of the law of limitation. Hence the said objection of the Respondents is overruled.

7. Next coming to the merit of the matter, it is seen that the documents enclosed to the OA and rejoinder by the applicant in support of her plea that her husband was very much in service on or before 1.4.1973 have neither been disputed in the counter filed by the Respondents nor in course of hearing by Learned Counsel appearing for them. The Respondents are also within their domain to object the engagement of the husband of the applicant on or before 1.4.1973 on the strength of the Service Book copy of which is enclosed to their counter. This Tribunal is not supposed to make a roving enquiry to find out ^{the} truth. In view of the discussions made above, this OA is disposed of with direction to the Respondents to examine the matter in depth with reference to the order under Annexure-A/2&A/3 and the order of this

18
Tribunal in OA Nos. 603/1998, 340/2000 and 153/2004 and in the event it is established that the husband of the applicant was employed as on the cut off date then the applicant should be paid the arrear salary as has been paid to the applicants in the OAs referred to above. In any event the applicant shall be intimated the result in a reasoned order. The needful shall be done within a period of 90(ninety) days from the date of receipt of copy of this

order.


(A.K.PATNAIK)
Member (Judicial)


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