

-15

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No. 72/Jodhpur/2010.

Date of decision:05.09.2012

CORAM :

HON'BLE MR. G. GEORGE PARACKEN JUDICIAL MEMBER
HON'BLE Mr. B.K.SINHA, ADMINISTRATIVE MEMBER

Hem Singh S/o Shri Moti Singh aged 60 years resident of Village Jhala Ki Choki, Revenue Village Asan Tirolia, Post Sendra, Tehsil Raipur, District Pali, Rajasthan, Retired from the post of MET, Engineering Department, North-Western Railway, Ajmer, Rajasthan.

..... Applicant

[By Mr. Kuldeep Mathur, Advocate]

Versus

1. The Union of India through the General Manager, North-Western Railway, Jaipur (Raj).
2. The Divisional Railway Manager, North-Western Railway, Ajmer, Rajasthan.
3. The Senior Divisional Personnel Officer, North-Western Railway, Ajmer, Rajasthan.
4. The Senior Section Engineer (PW), North Western Railway, Ajmer, Rajasthan.

.....Respondents

[By Mr. Salil Trivedi, Advocate.]

ORDER (Oral)

[PER HON'BLE MR. G. GEORGE PARACKEN]

The applicant who superannuated from the Office of respondent No. 4, namely, the Senior Section Engineer (P.W.), North Western Railway, Ajmer, had approached this Tribunal earlier vide OA No. 38/2008 with the grievance that even though he served as a Casual Labourer from 21.02.1967 and he continued in that capacity till he was appointed on regular basis on 19.01.1979 yet the aforesaid period has not been counted for the purpose of his retrial benefits. The said O.A. was disposed of vide Annex.A/7 order

8

dated 13.02.2008, with the direction to the respondents to treat the same as a representation from the applicant to dispose of it, of as per the extent rules and regulations. He was also given opportunity to reagitate his case, if so advised.

2. Pursuant to the aforesaid direction, the respondents have issued the impugned Annex.A/1 order dated 22.09.2009 stating that as per the applicant's Service Record, he was appointed w.e.f. 19.01.1979 and during all these years, he has never raised any objection against the same. Therefore, his claim of having been appointed from 21.02.1967 shall be rejected as the said date has never been recorded in any of the documents. The applicant has challenged the aforesaid impugned letter in this O.A. giving documentary proof that he was actually appointed w.e.f. 21.02.1967. In this regard, he has produced the following documents :-

1- Annex.A/2 letter dated 14.02.1967 by which the respondents have referred him for medical examination before his engagement w.e.f. 21.02.1967.

2- The seniority list of Class IV Staff working under the PWI (H&S), Ajmer as on 10.08.1990 wherein the applicant's name has been shown at Sl. No. 56. with other particulars such as his date of birth as 14.02.1947; his date of appointment as 21.02.1967 and his date of confirmation as 21.02.1969.

3- Annex.A/3 letter dated 10.08.1990 (Annex.A/3) which is a list of Class IV staff working under Part (N) & (S) Ajmer wherein the name of the applicant has been shown with the aforesaid dates, i.e. date of birth, date of appointment and date of confirmation.

4- Annex.A/4 Seniority List of Mates Annex.A/4 as on February, 2006 wherein his name has been shown at Sl. No. 3 against which it has again shown his date of appointment as 19.01.1979 and the date of his working as Mate as 2.8.1996.

2

7/5

5- Annex.A/5 copy of the application for pension wherein his particulars have filled-up by the respondents themselves showing his date of birth as 14.02.1947 and his date of appointment is 19.01.1979.

3. During the course of arguments, the learned counsel for applicant has also produced a copy of the Attendance-sheet pertaining to the month of October 2006 in which his date of appointment has been shown as 19.01.1967 and the same has been taken on record after supplying a copy to the learned counsel for respondents.

4. The learned counsel for the respondents has however, disputed the authenticity of Annex.A/3 list of documents as they are undated. He has also submitted that the respondents are not aware of any such documents issued by them.

5. We have considered the submissions of the learned counsel for the parties. As the respondents have not considered the documents filed by the applicant alongwith this Original Application so far and their genuinity and authenticity have not been confirmed by them, we direct them to go through all those documents carefully and decide whether they are genuine or not. They may also refer to the records of the contemporaries of the applicant whose names have been mentioned in those documents to establish their genuineness. Further, they should also verify whether the employees whose names have been given in the documents have been given the benefits sought for by the applicant in this O.A. In case those documents are found to be genuine, then the respondents are duty bound to consider them for the purpose of

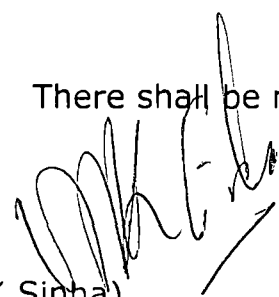
✓

granting the reliefs sought by the applicant. If it is established that the applicant has actually worked as a Casual Labour during the aforesaid period then as per the extent rules, he is entitled to count its 50% as qualifying service for the purpose of pension. We also note here that payment of pension is a continuing cause of action and if the same has not been computed properly by the respondents, they cannot raise the objection of limitation against the employee concerned.

6. We, therefore, dispose of this OA with the aforesaid directions as well as the liberty to the applicant to produce any other relevant documents before the competent authority who shall call him personally for hearing in detail before passing any orders in this regard. The respondent shall also consider the present O.A. along with its Annexures as an additional representation on the part of the applicant. Further, the competent authority in the respondents department shall pass appropriate orders, within a period of four months from the date of receipt of a copy of this order.

7. The applicant is also allowed to serve a copy of this order as well as the copy of this O.A. with its Annexures Dasti to the respondent No. 3 for immediate necessary action in the matter.

8. There shall be no order as to costs.



(B.K. Sinha)
Admv. Member



(G. George Parackal)
Judl. Member