

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.43/97

Friday this the 25th day of July, 1997.

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

K.Prabhakaran,
Senior Keyman,
Office of the Permanent Way Inspector,
Southern Railway,
Shornur, residing at Kollure
House, Ganeshgiri PO,Shornur.3. Applicant

(By Advocate Mr. P.Ramakrishnan)

Vs.

- 1 Union of India, represented by the General Manager, Southern Railway, Madras.
- 2 The Divisional Personnel Officer, Southern Railway, Palghat. Respondents

(By Advocate Ms. Mary Nirmala represented Mr.T.M.Nellimootil)

The application having been heard on 25.7.1997, the Tribunal on the same day delivered the following:

O R D E R

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While the applicant was working as a casual labourer he was granted temporary status with effect from 21.6.71. His services were terminated on 23.5.74 as he had participated in the general strike. Challenging the termination of his services he filed O.P.1274/75 before the High Court. During the pendency of the Original Petition the applicant was reinstated in service with effect from 3.3.75. As the backwages for the period during which he was kept out of service was not paid to him, the applicant filed C.P(C) 95/83 under Section 33(c)(2) of the Industrial Disputes Act for payment of wages for the period between 23.5.74 and 3.3.75. The Labour Court allowed the claim by order dated 4.2.85 and the second

respondent was directed to pay to the applicant Rs.2278.30 as backwages for the period. The respondents Railways filed OP.4370/86 before the High Court of Kerala challenging the order passed by the Labour Court but this Original Petition was dismissed by the High Court by order dated 23.1.96. On dismissal of the Writ Petition the respondents paid to the applicant the sum of Rs.2278.30 by cheque dated 21.6.96. The Railway Board Circular dated 22.7.77 provided for grant of benefit of the earlier service for the purpose of leave, passes, increments etc. As backwages had not been paid to the applicant and the service benefits for the period during which he was kept out of service were not given to him the applicant filed O.A.96/87. Taking note of the stand of the respondents that the applicant would be given all the benefits in accordance with the Circular dated 6.4.77, the application was disposed of by order dated 7.8.89 directing the respondents to grant to the applicant all the benefits in accordance with the said circular. The respondents issued an order dated 9.1.90 (A3) stating that the applicant had been granted all the benefits in accordance with the Railway Board Circular. Being dissatisfied with the benefits granted the applicant followed up the matter by making further representation to which the applicant received the A4 order dated 2.5.94 by which he was informed that he was not eligible for regularisation of the broken period. It was after this A4 order was issued that the Original Petition filed by the respondents against the order of the Labour Court was dismissed. After the disposal of the Original Petition the applicant made a further representation on 20.2.96 seeking

regularisation of the period between 23.5.74 and 3.3.75. Finding no response to this representation the applicant has filed this application for the following reliefs:

- (a) a declaration that the denial of benefits due to the applicant by way of annual increment from 1974 onwards and interest at commercial rates on the amount awarded by Annexure.A1 is illegal.
- (b) a direction to the respondents to immediately grant the claims urged by the applicant in Annexure.A1.
- (c) a direction to the 2nd respondent to take up and dispose of Annexure.A5 representation forthwith; and
- (d) such other orders and directions as are deemed fit in the facts and circumstances of the case.

2. The respondents contend that the applicant is not entitled to anything more than what has been granted to him on the ground that in view of the Railway Board letter dated 7.4.79 which says that casual labourers/substitutes who had attained temporary status are not eligible for regularisation of the broken period.

3. On a careful scrutiny of the material placed on record and on hearing the arguments of the learned counsel on either side I am of the considered view that respondents are not justified in pressing into use of the Railway Board letter dated 7.4.79 to deny regularisation of the period when the applicant was kept out of service long before the issue of the letter. The letter does not state that it has got retrospective operation. Further the stand now taken by the respondents that the period in question ie. between 23.5.74 and 3.3.75 is a broken period is irrelevant for the reason that under the orders of the

Labour Court the respondents have paid the applicant backwages for the period which means that this period had been treated as on duty. The Original Petition filed by the respondents against the order of the Labour Court has been dismissed by order dated 23.1.96 and it was thereafter that the backwages were paid. Once the respondents have paid backwages for the period they are naturally bound to treat that period as on duty and to regularise the same.

4. In the light of what is stated above, the respondents are directed to grant applicant increments and other benefits treating that during the period between 23.5.74 and 3.3.75 the applicant was on duty. Orders in this regard fixing the pay of the applicant granting increments etc. shall be issued by the respondents within a period of two months from the date of receipt of a copy of this order. The application is disposed of as above. There is no order as to costs.

Dated the 25th day of July 1997.


A.V. HARIDASAN
VICE CHAIRMAN

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