

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.NO.461 OF 2002

Thursday this the 17th day of July, 2003

CORAM

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

K.T.Onan, Sr.Trackman,
Southern Railway,
Kottayam (Retired)
Pothiparambath House,
Midayikunnam PO
Thalayolaparambu.

...Applicant

(By Advocate Mr. P.C.Sebastian)

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1. The Senior Divisional Personnel Officer,
Southern Railway,
Thiruvananthapuram.
 2. The General Manager,
Southern Railway,
Chennai.
 3. The Union of India, represented
by the Chairman,
Railway Board,
Rail Bhavan, New Delhi.
- ...Respondents

(By Advocate Mr.Thomas Mathew Nellimootil)

The application having been heard on 29.5.2003 the Tribunal on 17.7.2003 delivered the following:

O R D E R

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

In this application filed under Section 19 of the Administrative Tribunals Act, the applicant who retired on superannuation from the service of the respondents on 31.3.2001 is aggrieved that his service after attaining temporary status as casual labour from 1.1.1967 to 23.10.1978 has not been reckoned for computing the qualifying service for pension and DCRG. The applicant's case is as follows.

2. Applicant joined service under the Railways as an open line casual labourer on 25.8.1966, that on completion of 120 days of service he attained temporary status with effect from 1.1.1967, that therefore half the period from 1.1.1967 till the date of his regular absorption is liable to be counted as qualifying service for pension and terminal benefits. Finding that in Annexure.A1 calculation sheet while fixing the pension, the service of the applicant prior to 23.10.78 has not been taken into account at all, the applicant submitted Annexure.A3 representation to the senior Divisional Personnel Officer, Southern Railway, Trivandrum (Ist respondent). As he did not receive any response to his representation the applicant has filed this application for a declaration that he is entitled to count half the period of his casual service from 1.1.67 the date of completion of 120 days of continuous casual service as qualifying service for pension and DCRG and for a direction to the Ist respondent to revise the applicant's pension and DCRG counting the aforesaid period as qualifying service and to make available to him the resultant arrears on the basis of the revised terminal benefits.

3. The respondents in their reply statement contend that since the Annexure.A2. casual labour card between 25.8.66 and 20.11.72 do not contain any entries to prove that they related to the applicant, the genuineness of the document being doubtful the applicant is not entitled to reliefs sought. They further contend that as the applicant

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had been granted temporary status with effect from 23.10.78 by specific order No.107/79/WP dated 11.6.79 which has not been objected to by the applicant so far his claim is barred by limitation. They have further contended that even assuming Annexure.A2 casual labour card related to the applicant during the period from 25.8.66 to 20.11.72 the applicant did not complete 180 days or 120 days of casual labour service continuously at any point of time and therefore, the claim of the applicant has no basis.

4. We have heard the learned counsel on either side and have perused the pleadings and the documents brought on record. We have also perused the original casual labour card produced by the applicant before us.

5. The contention of the respondents that the application is barred by limitation because the applicant has not so far objected to the grant of temporary status w.e.f. 23.10.78 by order dated 11.6.79 has no force because the dispute in this case relates to counting of qualifying service for pension which arose only after issue of Annexure.A1 calculation sheet on his superannuation on 31.3.2001. He has made Annexure.A3 representation on 13.8.2001. Finding no response for six months he has filed the OA within one year from that date. The application, therefore, is within the period of limitation.

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6. From Annexure A.1 the calculation sheet it is seen that the date of entry of the applicant in service is shown as 23.10.78 and the entire period thereafter till the date of superannuation namely 31.3.2001 has been taken into account as qualifying service for pension. If as contended by the respondents 23.10.78 is the date on which the applicant attained temporary status then the date of regular entry in service would have been different and only half the period after 23.10.78 till the date of regular appointment would have been reckoned as qualifying service. Further a scrutiny of the original casual labour card shows that the front page of which is in the name of the applicant. The date of birth of the applicant is shown as 16.2.1942 and the age on initial casual employment is shown as 25. If Annexure A2 casual labour card is genuine the applicant would have been initially engaged as casual labourer somewhere near to the year 1967. Further the seal of PWI/KYM is also seen in the 1st page of the card. Therefore, without a proper scrutiny of the original of Annexure A2 casual labour card, with reference to the records which must be available in the PWI/KYM office and other offices where the applicant would have been deployed to work, such as LTI Register etc, it is not proper for the respondents to reject the claim of the applicant outright. It is evident that the original of the casual labour card which is in the possession of the applicant has not so far been scrutinised by the respondents. Since the genuineness

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of the casual labour card is doubted and the question whether even if the casual labour card is genuine at what point of time the applicant had put in 120 days of casual labour service continuously requires verification and adjudication of facts, I am of the considered view that the matter should go back to the respondents for a proper verification of the record of service of the applicant and if the claim of the applicant is found to be true, to reassess the pension and other terminal benefits of the applicant.

7. In the light of the facts and circumstances of the case, I dispose of this application directing the 1st respondent to verify the record of service of the applicant comparing the original of Annexure.A2 which shall be produced by the applicant with the LTI Register and other relevant records of the PWI/KYM and other offices and to take an appropriate decision on the claim of the applicant for revised pensionary benefits and if the applicant is entitled to the revision of qualifying service for pension and pensionary benefits to issue revised pension payment order and make the resultant arrears available to the applicant within a period of three months from the date of receipt of a copy of this order. The above direction shall be complied with by the 1st respondent within a period of three months after giving the applicant a personal hearing and an opportunity to produce the original casual labour

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card available with him. If the original casual labour card is produced before the 1st respondent a proper acknowledgement shall be given to the applicant and while the same is returned to the applicant a written acknowledgment also shall be obtained. There is no order as to costs.

Dated this the 17th day of July, 2003



A.V. HARIDASAN
VICE CHAIRMAN

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