

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.511/09

Monday this the 21st day of June 2010

C O R A M :

HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER

G.Gopalakrishnan Nair,
(Retd. Head Ticket Examiner,
S.Railway, Trivandrum),
S/o.Madhavan Pillai,
Resident of Lakshminivas,
Joseph Line, Kachani,
Karakulam PO, Trivandrum.

...Applicant

(By Advocate Mr.M.P.Varkey)

V e r s u s

1. Union of India represented by General Manager,
Southern Railway, Chennai – 600 003.
2. The Divisional Railway Manager,
Southern Railway, Trivandrum – 695 014. ...Respondents

(By Advocate Mr.Thomas Mathew Nellimoottil)

This application having been heard on 21st day of June 2010 this
Tribunal on the same day delivered the following :-

O R D E R

HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER

The only grievance of the applicant is that the respondents have not
granted him the gratuity for the casual labour service rendered by him
intermittently during the period from 6.2.1969 to 28.10.1979 as detailed in
Annexure A-1 (a), (b), (c) and (d) casual labour card in terms of the
Railway Board's Annexure A-7 letter No.E(LL) 86/AT/GRA/1-2 dated
30.6.2000 regarding applicability of Payment of Gratuity Act, 1972 and the
rules made thereunder to casual labourers.



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2. The brief facts of the case are that the applicant served as a casual labour during the period from 6.2.1969 to 4.4.1979 (with intermittent breaks). Thereafter, he was posted as Substitute Parcel Porter with effect from 4.4.1979 and then as temporary status casual labour with effect from 5.8.1979. He retired from service as a Head Ticket Examiner on 31.10.2008. As the respondents have not counted the service rendered by him prior to 5.8.1979 for the purpose of granting terminal benefits, the learned counsel for the applicant has submitted that in terms of the Annexure A-7 letter of the Railway Board No.E(LL)86/AT/GRA/1-2 dated 30.6.2000, the applicant was entitled for payment of gratuity under the Payment of Gratuity Act, 1972 for the casual labour service rendered by him from 6.2.1969 to 4.4.1979. According to the said letter, if the Railway servant is eligible to draw gratuity under the provisions of the Payment of Gratuity Act, 1972, for the period of service prior to grant of temporary status the same should be worked out on the basis of emoluments admissible on the date preceding the date on which he was granted temporary status. The amount of gratuity thus worked out was to be paid along with the interest at the rate specified by the Government from time to time. It was also stated in the said letter that the Railways shall suo moto take steps to examine all the past cases on the basis of records available and settle the claims accordingly. For this purpose, all the claimants are to be suitably addressed on the basis of particulars available with the Railways, so that the claimants or their legal heirs can claim the payment without delay. The Railway Administration was also expected to extend all assistance to the retired as well as the serving Railway servants to exercise the option judiciously in order that the option exercised is advantageous to them.



3. Counsel for the applicant has submitted that this case is squarely covered by the earlier orders of this Tribunal in OA 359/08 decided on 31.3.2009. The operative part of the order was as under :-

“4. I have heard Shri.T.N.Sukumaran for the applicant and Shri.Thomas Mathew Nellimoottil for the respondents. It is an undisputed fact that the applicant has been working as a casual labourer with the Respondents Department. The respondents themselves have admitted that he was granted temporary status with effect from 10.8.1979. Obviously, he has rendered service prior to that date as a casual labourer. In order to take care of such period of casual service only the Railway Board has issued Annexure A-1 circular dated 30.6.2000. As already noted above the concerned Railways were directed to take suo moto steps to examine all the past cases on the basis of records available and settle the claims accordingly. As the Railway Board has envisaged that there will be difficulties in locating the records and the service book would obviously contain only the entries from the date of regular appointment, the Railway Administration were directed to extend all assistance to the retired as well as the serving Railway servants to exercise the option judiciously in order that the option exercised is advantageous to them. Respondents have not complied with the aforesaid directions of the Railway Board. I, therefore, allow this O.A and declare that the applicant is entitled to obtain the casual labour service rendered by him reckoned for payment of gratuity. In the absence of the original casual labour service card, the respondents shall rely upon the Annexure A-2 copy of the casual labour service card submitted by the applicant. They may, if necessary, get it verified from the concerned authorities. The respondents shall consider the case of the applicant strictly in terms of the aforesaid Annexure A-1 circular dated 30.6.2000 of the Railway Board. Since the applicant has already retired from service and he was a low paid employee, an official from the Welfare Department of the Railways shall be deputed to assist the Government servant to exercise his option judiciously as ordered by the Railway Board in their Circular. The benefits arising out of the said circular shall be made available to the applicant within a period of three months from the date of receipt of a copy of this order. There shall be no order as to costs.”

4. The applicant has also made the Annexure A-8 representation dated 30.4.2008 to the respondents seeking redressal of his grievance but they have not considered the same so far. Hence, he has filed this OA.



5. The respondents in their reply statement has submitted that during the entire period of his service he had not represented for the payment of gratuity in terms of the aforesaid Railway Board letter dated 30.6.2000. They have also submitted that the claim for payment of interest, at least, is not permissible in his case as he was bound to have represented for payment of gratuity immediately after 30.6.2000 on the basis of the aforesaid letter. Further they have submitted that since the service register of the applicant is not having any entry as regards his alleged casual labour service in the Project, they should be allowed to examine his claim without interest, if the applicant submits the documents in proof of his casual labour service.

6. I have heard the learned counsel for the parties and perused the documents available on record. I fully agree with the submissions of the counsel for the applicant that this case is covered by the earlier order of this Tribunal in OA 359/08 (supra). The Railway Board vide their letter dated 30.6.2000, unambiguously stated that the Railways shall suo moto take steps to examine all the past cases on the basis of records available and settle the claims accordingly. The respondent Railway was also required to address the claimants suitably on the basis of the particulars available with the Railways so that the claimants or their legal heirs can claim the payment without delay. They were also required to extend all assistance to the retired as well as the serving Railway servants to exercise the option judiciously in order that the option exercised is advantageous to them. However, the respondents failed in implementing the aforesaid instructions of the Railway Board in the case of the applicant. I, therefore, allow this OA and declare that the applicant is entitled to get



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gratuity for the casual labour service rendered by him prior to 29.10.1979 in terms of the Payment of Gratuity Act, 1972. Consequently the respondents are directed to work out the gratuity payable to the applicant along with interest and pay the same to him within a period of three months from the date of receipt of a copy of this order. There shall be no order as to costs.

(Dated this the 21st day of June 2010)



GEORGE PARACKEN
JUDICIAL MEMBER

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