

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA NO.535/2000

Tuesday this the 27th day of February, 2001.

CORAM

HON'BLE MR. G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

P.Kunhikannan Nair
S/o Late Raman Nair
Retired Senior Gate Keeper
Traffic, Office of the Station
Master, Quilandi.
Residing at Puthiyottil House
Meladi Post,
Via Vadagara, Calicut.

Applicant

[By advocate Mr.V.R.Ramachandran Nair]

Versus

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

[By advocate Mr.K.V.Sachidanandan,ACGSC]

The application having been heard on 27th February, 2001, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

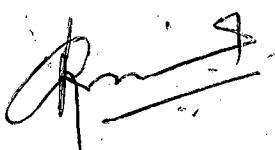
Applicant aggrieved by A2 pension calculation sheet issued by 3rd respondent and A5 pension payment order issued by 4th respondent to the extent of considering only 31 years, 4 months and 6 days as qualifying service of the applicant and calculating pension accordingly has filed this application seeking the following reliefs:

- (i) To call for the records leading upto Annexures A2 & A5 and quash the same to the extent of showing a less qualifying service for pension as 31 years, 4 months and 6 days only and the date of appointment as 10.12.1968 respectively.



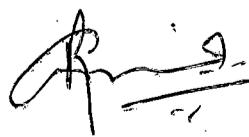
- (ii) To issue a direction to the respondents to revise the pension and other retirement benefits of the applicant counting the whole service from 31.10.1964 to 31.3.1998 as qualifying service for pension and to grant and pay the arrears with all consequential benefits.
- (iii) To issue a direction to the respondents to pay 18% interest on arrears from the date of retirement till the payment is made.
- (iv) To award costs to the applicant.

2. Applicant is a railway pensioner retired from service as Senior Gate Keeper, Traffic, Quilandi on 31.3.98. He was initially appointed in the railway service as casual Sweeper cum Porter on 18.11.62 and worked so intermittently till 29.10.64. He was posted against a regular vacancy with effect from 30.10.64. In due course of time, he was promoted as Gate Keeper and thereafter as Senior Gate Keeper. Ever since the regular appointment on 30.10.64 his service was continuous without any break till his retirement. At the time of his retirement he was issued service certificate by the 3rd respondent in which his period of service was shown as from 30.10.64 to 31.3.98. Based on this he claims he has put in 33 years and 5 months qualifying service and thereby eligible for full pension. But in pension calculation sheet his service was shown as 31 years, 4 months and 6 days only as qualifying service. Applicant submitted A3 representation dated 1.10.98 to the 3rd respondent. Not receiving any reply, he enquired with the office of the 3rd respondent and he was advised that the entries had been corrected by the 4th respondent. Having failed to get redressal of his grievance, applicant filed A4 representation dated 16.2.99. In A5 pension payment order of the applicant his date of appointment had been shown as 10.12.68 only and the reason and source by which the above entry was made by the 4th respondent was not known to him. He



claimed that this was an erroneous entry and he was highly aggrieved by a substantial reduction in his pension. Applicant filed A6 representation to the General Manager (Personnel) on 6.10.99. Having not received any reply to any of the representation, he has filed this OA seeking the reliefs mentioned above.

3. Respondents filed reply statement resisting the claim of the applicant. According to the respondents, applicant had not produced any document to show that he was appointed as a regular measure against a regular vacancy on 30.10.64. They admitted that the applicant was granted authorized scale of pay (temporary status) with effect from 30.10.64 and appointed against a regular post only on 10.12.68. The date "30.10.64" , i.e. the date of grant of authorized scale of pay will entitle the applicant for certain benefits like leave, pass etc. and 50% of such service from the date of grant of authorized scale of pay/temporary status will count for pensionary benefits if followed by regular absorption against a Group-D post limited to 1.1.61 in respect of open line CLR service and 1.1.81 in respect of project CLR service. Hence there is no basis or justification for the claim of the applicant for counting whole of the service from 30.10.64 to 31.3.98 for the purpose of computation of pensionary benefits. According to them, the applicant was initially engaged as a casual labourer on 18.11.62 in the Traffic Department and granted temporary status and authorized scale of pay on and from 30.10.64 in scale Rs.70-85. Thereafter he was selected and empanelled for appointment against a regular post with effect from 10.12.68 as Sweeper in the medical department by R-1 order dated 8.4.'69.



4. Learned counsel for the respondents submitted that the plea of limitation taken in the reply statement is not being pressed as they admit that the applicant had been making representations. According to them the pensionary benefits had been calculated correctly taking 50% of the service from 30.10.64 to 9.12.68 and full service from 10.12.68 to 31.3.98 and that the qualifying service was thus computed as 31 1/2 years.

5. Applicant filed rejoinder reiterating the points made in the OA. Along with the rejoinder, he also filed copies of his bio-data (Annexure A7) certified by the Station Master, Southern Railway, Quilandi and Annexure A8 application for loan to the Southern Railway Employees' Cooperative Credit Society Ltd., Thiruchirapalli in support of his plea that he was regularly appointed and his date of appointment was 30.10.64.

6. Heard the learned counsel for the parties.

7. On 15.2.2001, learned counsel for the applicant sought time to produce records to show that the services of the applicant from 30.10.64 to 9.12.68 were as casual labourer with temporary status. The respondents were directed by this Tribunal to produce the service record of the applicant also. Today the learned counsel for the respondents produced only the service record of the applicant.

8. After giving careful consideration to the submissions made by the learned counsel for the parties as well as the

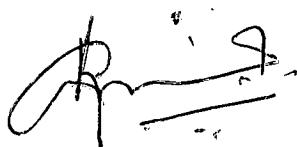
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rival pleadings and going through the documents brought on record, I find that the issue to be decided in this case is whether the period of service of the applicant from 30.10.64 to 9.12.68 is of casual labour service or of service against a regular vacancy in the Traffic Department. Even though it is noticed that the applicant in the OA has nowhere averred that on 10.12.68 he was appointed after selection the medical branch, it is an undisputed fact that the applicant finally retired in 1998 from the Traffic Department.

9. Learned counsel for respondents on producing the service record of the applicant relied on the first entry made on page 3 of the service record in support of the averment made in the reply statement that the applicant was a casual labourer and had been granted temporary status with effect from 30.10.64. The said entry reads as under:

"Granted authorized scale of pay Rs. 70 p.m. in scale Rs. 70-85 from 30.10.64 while working as CLR/SCP/CQL."

10. It is on the basis of this entry that the respondents claimed that the applicant was only a casual labourer in the Traffic Department and on 31.10.64 he was given temporary status. Applicant's case is that from 30.10.64 he was appointed against a regular vacancy in the Traffic Department. The above entry extracted would itself indicate that the applicant even though a casual labourer had been working against a regular vacancy because he is shown working as SCP/CQL. It is not shown that he is working against casual labour sanction. A person who is working against a regular post in the Railways on authorized scale of pay cannot be

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called as a casual labourer and be made to lose that service for pensionary benefits. Further on page 14 of the service register of the applicant the following entries are found recorded:

"The following periods of service have been verified from the record in which the verification is made and these will qualify for pension:

The following period of service will not qualify for pension for the reasons indicated against each:

30.10.64	to	30.3.65	31.10.67 to 3.11.67 4EXL(A6)
1.4.65	to	31.3.65	17.3.68 to - 1 "
1.4.66	to	31.3.67	21.9.68 to - 1 "
1.4.67	to	30.10.67	26.12.71 to - 1 "
4.11.67	to	16.3.68	
18.3.68	to	31.3.68	
1.4.68	to	20.9.68	
22.9.68	to	31.3.69	
1.4.69	to	31.3.70	
1.4.70	to	31.3.71	
1.4.71	to	25.12.71	
27.12.71	to	31.3.72	

At end of the above entries an initial "for DPO" and another initial dated 6.6.72 is found.

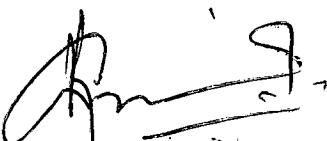
11. The service record is the record of service of the applicant which contains chronological events in the career of a Railway servant from the date of commencement of service. When entries regarding qualifying service are made on 6.6.72 in the service record stating that the applicant's service from 30.10.64 onwards qualified for pension how and on what basis, in 1998 the same had been ignored even though in the first instance they were accepted, as seen from A-2 is not explained anywhere.



12. In the light of the foregoing, I am of the view that the applicant is entitled for counting the period of service from 30.10.64 to 9.12.68 excluding the periods which are non-qualifying as stated in the service record and extracted above as qualifying service for the purpose of pension in addition to the period from 10.12.68 to 31.3.98. Accordingly I quash A2 and A5 to the extent of showing less qualifying service for pension as 31 years 4 months and 6 days only and date of appointment as 10.12.68 respectively and direct the respondents to revise the pension and other retirement benefits of the applicant counting the qualifying service as stated above and arrange payments of arrears within a period of 3 months from the date of receipt of a copy of this order. In the circumstances of this case, I am also of the view that the applicant is entitled for costs which is assessed as Rs. 750/-. Respondents are directed to pay Rs. 750/- as costs to the applicant within 4 weeks from today.

13. The Original Application is disposed of as indicated above.

Dated 27th February, 2001.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER

aa.

Annexures referred to in this order:

A2 : True copy of the pension calculation sheet bearing No.J/T 626/VIII/J/MD 314 dated 13.3.98 issued by the third respondent.

A5: True copy of the pension payment order dated 1.4.98 issued by the 4th respondent.

A3: True copy of the representation dated 1.10.98 submitted by the applicant to the 3rd respondent.

A4: True copy of the representation dated 16.2.99 submitted by the applicant to the 2nd respondent.

A6: True copy of the representation dated 6.10.99 submitted by the applicant to the General Manager (Personnel).

R1: True copy of the office order-Medical No.MD/P3/69 11/69 dated 8.4.69.

A7: True copy of the certificate dated nil (bio-data) issued by the office of the Station Master, Southern Railway, Quilandi to the applicant.

A8: True copy of the certificate dated 23.6.73 issued by the office of the Divisional Personnel Officer, Olavakkot (Palghat) Division