

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A No. 539 OF 2012

Tuesday, this the 13th day of October, 2015

CORAM:

HON'BLE Mr. U. SARATHCHANDRAN, JUDICIAL MEMBER

K. Moideen Koya, S/o. Kunjamootty
Sarang (Retd.), Office of the Deputy Chief Engineer,
Southern Railway, Quilon.
Residing at: Kundukattu House,
Chenakkal (P.O), Chelary, Calicut.

- Applicant

(By Advocate Mr. Siby J. Monippally)

Versus

1. Union of India represented by
Deputy Chief Personnel Officer (Construction),
Southern Railway, Chennai.
2. The Senior Divisional Personnel Officer,
Southern Railway,
Trivandrum Division, Trivandrum. - Respondents

(By Advocate Mrs. K. Girija)

The application having been heard on 13.10.2015, the Tribunal on the same day delivered the following:

O R D E R (Oral):

U. SARATHCHANDRAN, JUDICIAL MEMBER

Applicant in this O.A i.e, Shri K. Moideen Koya entered the service of the Railways in 1971 as Mophila Khalasi. He was working as Sarang from 1972 to 1976. He was conferred temporary status with effect from 01.01.1981. Thereafter, he was regularised in Group D with effect from 11.03.1997 as Gangman. He retired from service on 31.03.2011. The grievance of the applicant is that he was not granted pension reckoning the period during which he was working as Mophila Khalasi with temporary status for the purpose of computation of his qualifying service. He therefore prays for directing the respondents to recaiculate the pension and to re-fix the same as has been done in respect of Shri P. Babu, a person similarly situated, who has also been granted pension reckoning the period of temporary status.



2. Respondents filed a reply stating that as per records of the respondents, the applicant was granted temporary status with effect from 01.01.1981. Respondents further contended that the qualifying service of the applicant has been worked out as 8 years, 1 month and 5 days by reckoning 50% of his service from 01.01.1981 to 10.03.1987 and thereafter 100% till his retirement on 31.03.2011. According to the respondents, applicant is entitled to only 22 years qualifying service. Respondents further contended that however, due to oversight, the applicant was allowed 30 ½ years taking into account 100% service from 01.01.1981 to 10.03.1997 instead of 50% and same requires to be revised after giving the applicant a show cause notice.

3. During the pendency of this O.A, applicant passed away. His wife was allowed to be substituted in his place as per order dated 06.07.2015 in M.A No. 213/2015.

4. Heard both sides.

5. At the time of arguments, learned counsel for the applicant produced a copy of the common order dated 17.08.2015 passed by this Tribunal in O.A No. 4/2014 and connected cases. In that order relying on Office Memorandum No. E(NG)II/2004/CL/14 dated 07.11.2014 issued by the Railway Board for counting service paid from contingencies with regular service for retirement benefits of employees who have put in such service, this Tribunal held that the respondents therein shall count 100% of the employees service with temporary status for the purpose of the pensionary benefits of the applicants therein. This Tribunal had directed the respondents therein to revise the pension of the applicants with consequential benefits on the family pension and other retiral benefits. The relevant portion of the aforesaid O.M. Issued by the Railway Board ^{is} as follows:-

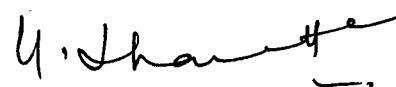
"Para 5. In view of the above, the Ministry of Railways is of the view that the existing condition of the 50% of temporary status casual labour service being counted as qualifying service needs to be liberalised so that such staff are in a position to earn a reasonable amount of pension on their retirement say, 2/3rd of full pension, if not full pension. It would, therefore, be necessary to modify the existing condition to provide that 100% of temporary status casual labour service will be allowed to be reckoned for the purpose of determining the qualifying service for grant of pensionary benefits."

6. The Tribunal is of the view that the case put forth by the applicant is akin to the case of the applicants in the aforesaid order of this Tribunal in O.A No. 4/2914 and connected cases.

7. In the above circumstances, respondents are directed to reconsider revising the pension relating to the applicant's husband by counting 100% of his service with temporary status put in by him as Khalasi with effect from 01.01.1981 till the date of his regularisation i.e. 11.03.1997. Respondents shall effect consequential revision in the Family Pension, gratuity and other retiral benefits and financial upgradation, if any, to which he was eligible. Arrears in respect of those retiral benefits due to the aforesaid pensioner shall be paid to his wife - the substituted applicant in this O.A. The aforesaid exercise shall be completed within two months from the date of receipt of a copy of this order. The family pension due to the applicant shall be paid to her with arrears within two months from the date of receipt of copy of this order.

8. The Original Application is disposed of accordingly. No order as to costs.

(Dated, the 13th October, 2015.)


(U. SARATHCHANDRAN)
JUDICIAL MEMBER