

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.578/12

Tuesday this the 8th day of January 2013

C O R A M :

HON'BLE Mr.JUSTICE P.R.RAMAN, JUDICIAL MEMBER

A.Lawrence, Sarang (Retd.),
Office of the Deputy Chief Engineer,
Southern Railway, Quilon.
Residing at Shobhana Mandiram,
S/o.Augustine, Perumon P.O., Perunad, Quilon.

...Applicant

(By Advocate Mr.Siby J Monippally)

Versus

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

...Respondents

(By Advocate Mr.Thomas Mathew Nellimoottil)

This application having been heard on 8th January 2013 this Tribunal
on the same day delivered the following :-

ORDER

HON'BLE Mr.JUSTICE P.R.RAMAN, JUDICIAL MEMBER

This OA was heard and order dictated on 31st December 2012.
Subsequently the learned counsel appearing for the applicant submitted
that he wanted to make out some points which was omitted to be
mentioned. Accordingly, this OA is posted today for being spoken to.



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2. Heard both sides. The applicant seeks a direction to the respondents to grant him retirement benefits by calculating his qualifying service with effect from 1.1.1981 till his retirement on 30.6.1997 and arrears till date. According to him, he was allowed to continue in service till 30.6.1997 and, therefore, he has got the required qualifying service for pensionary benefits. This O.A is filed only in 2012. The claim, if any, for any arrears is barred by law of limitation. No application for condonation of delay is filed. Even assuming that his claim for pensionary benefits could be limited to three years prior to the filing of the OA, he has to make out a case on merits. According to him, he entered service of Railways in 1971 as Mophila Khalasi. He was working as Sarang and conferred CPC status with effect from 1.1.1981. He was granted regularization in Group 'D' as Gangman but he did not join the post and continued to be as Sarang which is a Group 'C' post. He was allowed to continue in service till 30.6.1997. According to him, if his service is calculated from 1981 to 1997 he has got more than 16 years of qualifying service sufficient enough for granting him the pensionary benefits.

3. In the reply statement the respondents have denied the averments made in the O.A that the applicant was in service of Railways in 1971. Absolutely no materials are placed on record to show that the applicant has entered the service of Railways in 1971. Only his service from 1981 to 1997 was reckoned for the purpose of Service Gratuity. But, according to the respondents, 50% of his casual service was reckoned after he was



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conferred with temporary status. If so, he will not have the required ten years of qualifying service for pension. It is contended that 50% of his casual service has been reckoned but still he will not be entitled to the pensionary benefits. He will have only 8 ½ years qualifying service which is 1 ½ years less than the required qualifying service of ten years for pension.

4. No rejoinder is filed. The burden of proving that the applicant entered the service of Railways in 1971 lay on the applicant. No material whatsoever was produced before me to support the contention that he entered the service of the Railways in 1971. The respondents, however, admit the fact that he was given temporary status in 1981 and the qualifying service have been reckoned in accordance with rules taking 50% of casual service after conferring the temporary status. But that will only give him 8 ½ years of service. This aspect of the matter are not proved to be wrong by the applicant. But according to the applicant two other employees have been given certain benefits based on the fact that they entered the service of the Railways as Khalasi. No order is placed on record to show that similarly situated persons like the applicant have been given any benefits. If, as a matter of fact, any such benefit is given, it is for the applicant to approach the authorities in the first hand pointing out that two persons who have been given the benefits are similarly situated like him and claim the benefit. Insofar as that is not done, this contention is not gone into by me at this stage. However, this will not stand in the way of



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the applicant to make any representation to the respondents for claiming any benefits. If, as a matter of fact, benefits are given to similarly situated persons. Subject to the above, the OA is dismissed. No costs.

(Dated this the 8th day of January 2013)



JUSTICE P.R.RAMAN
JUDICIAL MEMBER

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