

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A. No. 581 of 1997.

Thursday this the 23rd October, 1997.

CORAM:

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

HON'BLE MR. P.V. VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

P. Appunny,
Retired Gang Mate, Office of
the Permanent Way Inspector,
Calicut, Southern Railway,
Palghat Division, Residing at
Pattayil House, Kadalundi P.O.,
Kozhikode District, Pin-673 602. .. Applicant

(By Advocate Shri V.R. Ramechandran Nair)

Vs.

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. .. Respondents

(By Advocate Shri K. Karthikeya Panicker)

The application having been heard on 23rd October, 1997,
the Tribunal on the same day delivered the following:

ORDER

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

The grievance of the applicant, a retired Railway
employee is that his service from 1961 to 1970 has been
totally ignored in counting the qualifying service for pension
and granting him retiral benefits. Applicant states that
he was initially appointed as casual labour under Permanent
Way Inspector, Calicut from 10.5.1961, absorbed as substitute
Gangman with effect from 21.12.1964 and continued in that
capacity till he was appointed as temporary Gangman with
effect from 21.9.1975 and that he retired from service on
superannuation on 30.6.96. It is stated that while computing

pension of the applicant his service from 21.4.70 upto 21.9.75 was taken as casual. The applicant's case is that his casual service from 1961 onwards and substitute service from 1964 onwards has to be taken into account for arriving at the qualifying service for pension. According to him, 50% of his casual service with effect from 10.9.61 to 20.12.64 and the entire service from 21.12.64 to 30.6.96 has to be taken as the qualifying service. The applicant has, therefore, prayed for a direction to respondents to fix his retiral benefits reducing 50% of his casual service from 10.5.61 to 20.12.64 and the whole of his substitute service from 21.12.1964 to 20.9.1975. He has also prayed for disbursement of the arrears of pensionary benefits with interest at the rate of 24% per annum, as the same has been wrongly denied to him.

2. Respondents in their reply statement have contended that as per the records, the applicant was engaged as a substitute and was granted temporary status with effect from 21.4.70 and the mistake in not counting the period from that date in full had since been rectified and pension revised subsequently. They contend that as the applicant has never been in the service of the respondents from 10.9.61 to 21.4.70 his claim in the application is unsustainable.

3. The applicant in his rejoinder has reinstated his contention that he commenced casual service on 10.5.1961 and he had become entitled to grant a temporary status long before. The applicant has also produced the casual labour card to substantiate his claim of casual service is at Annexure A-11. In the additional reply statement the respondents reiterated that the applicant is not entitled to the reliefs.

4. We have carefully gone through the pleadings and the materials placed on records. The claim of the applicant that he is entitled to count $\frac{1}{2}$ the period from 10.5.61 is not supported by any material. However, the genuineness of A-11, a copy of the casual labour card is not disputed by the respondents. A perusal of Annexure A-11 reveals that the applicant has been continuously in service from 21.12.64 and that as on 26.6.65 he has completed six months of continuous service without break and became entitled to the grant of temporary status with effect from 20.6.65. It is also seen that he was appointed as substitute with effect from 21.10.69 and was continued as such till he was regularly appointed on 21.9.75. There is no dispute that the rule provides that $\frac{1}{2}$ the period of casual service after attaining temporary status is to be taken as the qualifying service for pension. It is also not in dispute that the substitute service after attaining of temporary status has to be taken in full while computing the qualifying service for pension. Therefore, from Annexure A-11 it is proved beyond doubt that the applicant is entitled to count $\frac{1}{2}$ the period from 21.6.65 till 20.10.69 and the full period from 21.10.69 till the date of his retirement as qualifying service for pensionary benefits.

5. In the light of what is stated above and the facts established by A-11 we are of the considered view that the applicant is entitled to have his pension revised accordingly.

6. In the result, the application is allowed in part. Respondents are directed to recompute the qualifying service for pension and the retiral benefits of the applicant taking into account 50% of his casual service from 21.6.65 to 20.10.69 and the entire service from 21.10.69 till the date of retirement to issue revised PPO to applicant and to make available

to him the entire arrears of pensionary benefits within a period of three months from the date of receipt of a copy of this order. The prayer for awarding interest is not granted. No costs.

Dated the 23rd October, 1997.

A. Venkatakrishnan
A. V. VENKATAKRISHNAN
ADMINISTRATIVE MEMBER

A. Haridasan
A. V. HARIDASAN
VICE CHAIRMAN

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