

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 605 of 2006

Thursday, this the 28th day of September, 2006

C O R A M :

HON'BLE MR. K B S RAJAN, JUDICIAL MEMBER

P.V. Antony,
Retired Pointsman I/Piravam Road,
Southern Railway, Residing at :
Puthunilam House, Kurumbanadom P.O.,
Madappally, Kottayam District.

... 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. Senior Divisional Personnel Officer,
Southern Railway, Trivandrum – 695 014.
3. Senior Divisional Finance Manager,
Southern Railway, Trivandrum – 695 014

... Respondents.

(By Advocate Mr. Thomas Mathew Nellimoottil)

The application having been heard on 28.09.2006, this Tribunal on the same day delivered the following:

ORDER
HON'BLE MR. K B S RAJAN, JUDICIAL MEMBER

The short question for consideration in this case is whether the services of the applicant prior to his regular appointment should not be taken into account



for working out the qualifying service.

2. Facts: According to the applicant, he was engaged as a casual labour in open line with effect from 11-08-1965 and by office order No. 12/71/WP dated 20.02.1971, the applicant was granted temporary status w.e.f. 11-02-1966 with the authorized scale of pay and by order dated 22-01-1979, he was empanelled for appointment as Temporary Gangman in scale of 200 – 250 and the applicant joined the post w.e.f. 21-04-1979. Later on the applicant was transferred to Traffic Department and posted as Sweeper-cum-poster in 1988 and promoted as Cabinman, Gr. II in 1991; and as Pointsman Gr. I, in 1998 in the scale of pay of Rs 3050-4590. Ultimately the applicant superannuated w.e.f. 01-07-2005.

3. The respondents have, while working out his entitlement for pension, calculated the qualifying service taking the period of regular appointment from 21-04-1979 upto 30-06-2005, leaving completely the period of temporary status, whereas, according to the applicant, the 50% of such period is reckoned as qualifying service. Representation dated 05-08-2005 filed by the applicant requesting the respondents to take into account the period of temporary status and revise the terminal benefits is stated to be pending.

4. Though notice was issued, counter has not been filed. Nevertheless, it was felt that this OA could be disposed of at the admission stage itself by explaining the rule position and directing the respondents to consider the case of



the applicant in the light of the rule position and decide the pending representation.

5. Rules on the subject matter are clear. Vide the decision of the Apex Court in the case of Union of India vs K.G. Radhakrishna Panicker, (1998) 5 SCC 111, temporary status rendered in open line is to be counted for qualifying services (to the extent allowed as per the provisions of the I.R.E.M) while this benefit is not available in respect of the temporary service ^{or} granted to the Project casual labourers as the grant of temporary status to Project casual labourers was a new benefit conferred upon them in the wake of the judgment of the Apex Court in the case of *Inder Pal Yadav* (1985) 2 SCC 648. In this regard reference is also invited to the decision of the Apex Court in the case of *Union of India vs Charles David* (1999) 9 SCC 172. As per the applicant, his engagement as casual labourer Khalasi was under Inspector of Works, Southern Railway, Quilon and the same was in open line. If his statement is correct, certainly he is entitled to the benefit of 50% of temporary status service to be counted as qualifying service, in which event, his total qualifying service would be more than 26 years arrived at by taking his service from 1979 to 2005, vide PPO dated 20-07-2005 (Annexure A-1). The respondents have not so far considered the representation dated 05-08-2005 preferred by the applicant in this regard.

6. This OA is, therefore, disposed of with the direction to Respondent No. 2 to verify the records and ascertain as to whether the applicant's services as



casual labourer from 1965 to 1979 were in open line and if so revise the quantum of qualifying service and consequently, also revise the terminal benefits. If according to the respondents, the period of temporary service rendered by the applicant is not in open line, then suitable reply be given, by a reasoned and speaking order, as to how his services were treated as one not of in the open line. This order shall be complied with, within a period of three months from the date of communication of this order.

7. Under the circumstances, there shall be no orders as to costs.

(Dated, the 28th September, 2006)



K B S RAJAN
JUDICIAL MEMBER

cvt.