

CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O.A.No.66/1997

Friday this the 21st day of March, 1997.

CORAM:

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

HON'BLE SHRI K.RAMAMOORTHY, ADMINISTRATIVE MEMBER

K.Devaki Amma,
Erathuvadathil Veedu,
'TKMC' Post,
Karikkode,
Quilon-5.
(By Advocate Mr.T.C.G.Swamy)

..Applicant

vs.

1. Union of India through
The General Manager,
Southern Railway,
Headquarters Office,
Park Town P.O.
Madras-3.
2. The Chief Engineer,
(Construction),
Southern Railway,
Egmore,
Madras-8.
3. The Deputy Engineer,
(Construction),
Southern Railway,
Ernakulam Junction,
Ernakulam.
4. The Divisional Personnel Officer,
Southern Railway,
Trivandrum Division,
Trivandrum-14.

..Respondents

(By Advocate Mr.Thomas Mathew Nellimootttil)

The application having been heard on 18.3.97, the Tribunal
on 21.3.97 delivered the following:

O R D E R

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN:

The applicant is the widow and legal
representative of late Shri N.Parameswaran Pillai, who
commenced his service under the respondents as a casual
labourer in 1952, regularised in service on 1.4.73 and
retired on superannuation on 30.11.1978. As he was not
granted any pension on retirement on the ground that his
regular service for 5 years and 7 months did not make him

eligible for grant of pension, Shri Parmeswaran Pillai filed O.A.1251/94 claiming that half the period between 1952 and 1973 during which period he was casual labourer had to be reckoned as period of qualifying service for pension praying for an order directing the respondents to settle the pensionary claims, accordingly. By order dated 29.9.94, the said Application was allowed declaring that 50% of the casual service rendered by Shri Parmeswaran Pillai between 1952 to 1.4.73 has to be reckoned as qualifying service for pension and directing the Divisional Personnel Officer, Southern Railway, Trivandrum to take action and to finalise his pensionary claims within six weeks from the date of the order. Since this direction in the Order was not complied with even after the expiry of the period stipulated in the order, Shri Parmeswaran Pillai filed a Civil Contempt Petition before this Tribunal. During the pendency of the said Contempt Petition, the respondents in that O.A. filed a Special Leave Petition No.20349/95 against the order of the Tribunal in O.A.1251/94 before the Supreme Court. While the S.L.P. was pending, Shri Parmeswaran Pillai passed away on 25.6.96 and the S.L.P. was dismissed by the Supreme Court by order dated 8.7.96 as having been abated. Since the order in O.A.1251/94 has become final by the dismissal of the S.L.P., the applicant who was the widow of Shri Parmeswaran Pillai waited for sometime to see whether the respondents would make available to her the life time arrears of pension of Shri Parmeswaran Pillai and family pension, in accordance with the rules. The respondents did not take any such action. Therefore, the applicant on 4.9.96 caused a lawyer's notice to be issued to respondents No.2,3 and 4 calling upon them to settle the pensionary claims and to pay her the life time arrears as also the

family pension. There was no response to this lawyer's notice also. Under these circumstances the applicant who is 65 years has filed this application under Section 19 of the Administrative Tribunals Act praying for directions to the respondents to pay her family pension with effect from 25.6.96 and the life time arrears of pension as the widow and legal heir of deceased Shri Parmeswaran Pillai with interest at 18% calculated from the date of Annexure A-1 judgment.

2. The Deputy Chief Engineer(Construction), Southern Railway, Ernakulam Junction on behalf of the respondents has filed a reply statement. The only contention raised in the reply statement is that Shri Parmeswaran Pillai was not entitled to any pension because he had only a regular service of 5 years and 7 months and as per the extant rules, the casual service rendered by him between 19.8.52 and 1.4.73 cannot be counted as qualifying service for pension. The respondents, therefore, contend that the applicant is not entitled to any of the reliefs.

3. As the issue involved in this case is very simple and needs expeditious adjudication, the counsel on either side stated that the matter may be finally disposed of at this stage itself. Accordingly, we heard the counsel on either side. The contention of the respondents that the period of casual service of Shri Parmeswaran Pillai between 19.8.52 and 1.4.73 cannot be counted as qualifying service at all for pension is untenable as the respondents are estopped from raising this issue on account of the declaration made in the order of the Tribunal in O.A.1251/94. In the said judgment which has become final on account of the dismissal of the SLP, it has been finally declared that 50% of casual service rendered by Shri Parmeswaran Pillai between 1952 and 1.4.73 has to be reckoned as qualifying service for pension. The respondents cannot agitate this issue

again. That the applicant is the widow and legal representative of Shri Parmeswaran Pillai is not in dispute. That Shri Parmeswaran Pillai died on 25.6.96 also is not in dispute. What emerges from what is stated above is that Shri Parmeswaran Pillai was entitled to have his pensionary claims settled treating half of the period of his casual service between 1952 and 1.4.73 as qualifying service for pension in addition to whole of his regular service and payment of the arrears of pension till the date of his death. It also follows that from the date of death of Shri Parmeswaran Pillai, the applicant who is the widow is entitled to have the family pension fixed and paid to her.

4. In the light of what is stated above, we allow this application and direct the respondents to compute the pension and other retiral benefits of Shri Parmeswaran Pillai reckoning half the period of casual service rendered by him between 1952 and 1.4.73 also as qualifying service for pension and to pay to the applicant the life time arrears upto 25.6.96 with interest at 18% per annum with effect from 15.11.1994 and to issue the Pension Payment Order computing the family pension due to the applicant on the basis of pension which was due to Shri Parmeswaran Pillai and to make available to her the arrears thereof. The entire action, as aforesaid, shall be completed and payment made to the applicant within a period of two months from the date of communication of a copy of this order. There will be no order as to costs.


K. RAMAMOORTHY
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

LIST OF ANNEXURE

1. Annexure A1: A true copy of the Judgement delivered by this Hon'ble Tribunal in O.A. No.1251/94 dated 29.9.94.

• • • •