

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 82 of 2013

FRIDAY, this the 20th day of September, 2013

C O R A M :

HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER

M.K. Gangadharan,
Aged 61 years,
S/o. Kochukutty,
Retd. Gate Keeper, Southern Railway,
Office of the Section Engineer,
Permanent Way, Tirur,
Now Residing at Dhanya Sadanam,
Rail Nagar, Olavakode,
Palakkad District.

... Applicant.

(By Advocate Mr. U. Balagangadharan)

v e r s u s

1. The Senior Divisional Personnel Officer,
Southern Railway,
Palakkad : 678 101
2. The Chief Personnel Officer,
Southern Railway, Chennai : 600 003
3. The General Manager,
Southern Railway, Chennai : 600 003

... Respondents.

(By Advocate Mr. K.M. Anthru)

This application having been heard on 11.09.13, the Tribunal on
20-09-13 delivered the following :-

ORDER

HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER


This O.A has been filed by the applicant seeking to set aside Annexure
A-4 order and for a direction to the respondents to revise his pension



reckoning 50% of the temporary status service from 01.01.1982 to 22.11.1992 as qualifying service and grant benefits, like pass, medical facility etc.

2. The applicant was initially appointed as a Project casual labourer on 20.11.1973. He worked upto 24.10.1977 with intermittent break in service. He was reengaged on 27.09.1982 and worked upto 24.11.1982. Even though he was granted temporary status with effect from 01.01.1982 on the direction of this Tribunal in O.A. No. 705/1997, he was not in service during the period from 01.01.1982 to 26.09.1982 and 25.11.1982 to 22.11.1998. He was absorbed as Temporary Gangman on 23.11.1998. The applicant contended that Annexure A-4 dated 3.12.2012 rejecting his request for RELHS/Pass facilities on the ground of his having only 13 years of total qualifying service at the time retirement is arbitrary and illegal. The applicant submitted that he had more than 20 years of service, if his past service rendered as temporary status casual labourer is reckoned @ 50 % as permitted by law. Annexure A-5 representation of the applicant is pending with the 3rd respondent against Annexure A-4 order.


3. The respondents in their reply statement submitted that the O.A is barred by limitation. The applicant should have approached this Tribunal immediately after his absorption in the year 1998, if at all he had any grievance. He has filed this O.A in 2013, nearly 15 years after his regular absorption, 09 years after disposal of his representation and 01 year after his retirement in January, 2012. In terms of Para 31(d) of Railway services (Pension) Rules, 1993, 50% of temporary status service can be taken into account for pensionary benefits, if it is followed by regular absorption. The



applicant was not in service from 25.11.1982 to 22.11.1998 (16 years). The temporary service of the applicant was not followed by regular absorption. The respondents have complied with the directions of this Tribunal in O.A. No. 705/1997 by granting him temporary status with effect from 01.01.1982 and by considering him for absorption in regular service in his turn in accordance with law. As the applicant had qualifying service of 13 years only, the benefits due to him have already been disbursed.

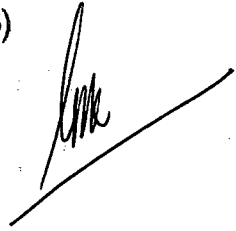
4. I have heard Mr. U. Balagangadharan, learned counsel for the applicant and Mr. K.M. Anthru, learned counsel for the respondents and perused the records.

5. As per Schedule IV of Pass Rules, Group-D employees retired with minimum railway service of 20 years are entitled to one set of pass every year. The contention of the respondents is that the applicant is having only 13 years of qualifying service as he was not in service from 25.11.1982 to 22.11.1998. There is no provision for counting temporary status service notionally for the purpose of grant of pension and other allied benefits. Para 31(d) of Railway Services (Pension) Rules, 1993, is specific that half of the temporary status service shall be taken into account for calculating pensionary benefits, if the temporary status service is continuous and followed by absorption in regular employment. This condition is not satisfied in the case of the applicant as his temporary service was not continuous from 01.01.1982 and also not followed by regular absorption. The period from 01.01.1982 to 22.11.1998 cannot be taken into account as qualifying service as claimed by him. Hence, I do not find any merit in the contention of the applicant.



6. Devoid of merit, the O.A is dismissed. However, this order shall not stand in the way of the competent authority to exercise his power, if any, to relax the condition for awarding complimentary pass in the case of the applicant and also in disposing of his representation at Annexure A-5. No costs.

(Dated, the 20th September, 2013)



(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER

cvr.