

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.109/2013

Tuesday this the 28th day of October 2014

C O R A M :

HON'BLE Mr.U.SARATHCHANDRAN, JUDICIAL MEMBER

P.R.Divakaran,
S/o.Ayyappan,
Rtd. Gang Mate, Southern Railway.
Residing at Pallatthukuzhy, Erumbayam P.O.,
Thalayolaparambu – 686 605.

...Applicant

(By Advocate Mr.P.C.Sebastian)

V e r s u s

1. The Senior Divisional Personnel Officer,
Southern Railway, Thiruvananthapuram – 695 014.
2. The General Manager,
Southern Railway, Chennai – 695 014.
3. Union of India represented by Secretary to Govt. of India,
Ministry of Railway, Rail Bhavan, New Delhi – 110 001.
4. The Manager,
State Bank of Travancore,
Collectorate Building, Kottayam – 686 002.

...Respondents

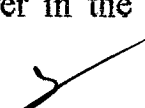
(By Advocate Mr.Thomas Mathew Nellimoottil)

This application having been heard on 9th October 2014 the Tribunal on 28th October 2014 delivered the following :-

ORDER

HON'BLE Mr.U.SARATHCHANDRAN, JUDICIAL MEMBER

In this case applicant is aggrieved by the denial of pensionary benefits without counting 50% of the casual labour service from the date of granting him temporary status. Applicant was a casual labourer in the Open Line



under the Permanent Way Inspector, Southern Railway at Kottayam from 26.5.1969. Annexure A-3 is the Casual Labour Card issued to him. Under Rule 2001 of the Indian Railway Establishment Manual (IREM) casual labourers in the Open Line are engaged to supplement the regular staff in work of seasonal or sporadic nature which arise in the day to day working of the railway traffic. As per the said Rule, casual labourer so engaged for more than 180 days without break will be treated as temporary. It is now well settled position that a casual labourer who has attained temporary status by operation of the statutory rules is entitled to the temporary status without being declared as such. As per Rule 2005 of IREM half of the period of the casual labour service rendered by casual labourers after attaining temporary status will be counted as qualifying service for the purpose of pensionary benefits. The grievance of the applicant is that he was granted pensionary benefits on his retirement without reckoning 50% of the casual labour service he had rendered after attaining temporary status.

Hence, he prays for the following reliefs :

1. To declare that applicant has attained temporary status on completion of 180 days from the date of his initial appointment as casual labourer in the Respondents Railways and he has become eligible and entitled to have half of the casual labour service rendered by him after attaining the temporary status counted as qualifying service for the purpose of computation of pensionary benefits.
2. To direct the respondents to issue revised pension payment orders to the applicant reckoning half of the period of the casual labour service rendered by him from the date on which he completed 180 days of service from the date of his initial appointment as casual labourer till the date of his appointment as regular employee and to effect payment of the arrears of pension, commutation pension and DCRG due to him in this regard within a time limit as deemed fit and proper to this Hon'ble Tribunal.
3. To issue appropriate orders/directions to the respondents to take necessary action to pay applicant fixed medical allowance due to him with arrears from 1.9.2008.



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4. To grant such other relief which may be prayed for and which this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.

5. To award costs for this proceedings in favour of the applicant.

2. Respondents filed reply stating that Administrative Tribunals Act, 1985 does not permit the Tribunals to examine a claim relating to more than 3 years prior to the promulgation of the Act. According to the respondents, the applicant should have ventilated his grievance within one year from the date of issuance of granting temporary status to him. According to respondents this is a stale claim which should not be entertained by the Tribunal. Apart from that, the respondents contend that the service of the applicant as per Annexure A-3 records are not authentic and that they do not show continuous service for 180 days.

3. Heard learned counsel for both the sides. Learned counsel for the applicant relied on Annexure A-4 order dated 14.2.2012 of this Tribunal in O.A.No.28/2011 and Annexure A-5 order dated 17.8.2011 of this Tribunal in O.A.No.1030/2010.

4. Applicant is a retired Railway servant. He is seeking the benefit of 50% of the service rendered as casual labourer after attaining temporary status. As per Annexure A-1 certificate it appears that he has only 29.5 years as net qualifying service. Applicant contends that if the authorities had reckoned 50% of his service as casual labourer after attaining temporary status as per Rule 2005 of IREM, he would have got enhanced pensionary



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benefits. Since the grievance of the applicant in this O.A is relating to his pension, this Tribunal is of the view that bar of limitation need not be strictly adhered to by this Tribunal for adjudicating this matter. It has to be noted that his cause of action arose only after his retirement on 31.8.2008, only after he started getting pension. Moreover, the grievance relating to pension is a continuing and recurring grievance which the applicant has to face every month.

5. It is now well settled position that 50% of the service rendered by a casual labourer after attaining temporary status will have to be counted for qualifying service for the purpose of pension and retirement benefits. The only contention of the respondents is that Annexure A-3 records do not have any authentication by the authority and that it does not bear the seal or signature. However, it appears that as Annexure A-3 entries are made in a Railway Register, the original records and the connected records thereof must be in the possession of the respondents Railway authority. Therefore the authenticity of the same can be got verified from those records.

6. In the circumstances, this Tribunal feels that the present O.A can be disposed of with a direction to the respondents to reconsider the pension and other retiral benefits of the applicant in the light of the contentions of ⁱⁿ this O.A and as per the copies of the records produced before this Tribunal. ^{ordered accordingly.}

Respondents shall complete this exercise within a period of six months and

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shall re-calculate the pension of the applicant with an open mind, not bearing any grudge for having approached this Tribunal for the reliefs and without demur that he is raking up an old case.

7. Since learned counsel for the applicant submitted that the relief No.3 in the O.A is not pressed, no order is passed thereon. The O.A is disposed of as above. No order as to costs.

(Dated this the 28th day of October 2014)


U.SARATHCHANDRAN
JUDICIAL MEMBER

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