

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No.
~~XXXXXX~~

165 of 1991

DATE OF DECISION 30-07-1992

P. Raghavan

Applicant (s)

Mr. M. Ramachandran through

Mr. Ramakrishnan

Advocate for the Applicant (s)

Versus

The General Manager, Southern

Railway, Madras and others

Respondent (s)

Mr. M. C. Cherian &

Mr. TA Rajan.

Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. **S. P. Mukerji**, Vice Chairman

and

The Hon'ble Mr. **A. V. Haridasan**, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? ☒
2. To be referred to the Reporter or not? ☒
3. Whether their Lordships wish to see the fair copy of the Judgement? ☒
4. To be circulated to all Benches of the Tribunal? ☒

JUDGEMENT

(Hon'ble Shri **S. P. Mukerji**, Vice Chairman)

We have heard the learned counsel for both the parties on this application dated 20.1.1991 filed under Section 19 of the Administrative Tribunals Act in which the applicant has prayed that like the casual employees subsequently regularised, 50 per cent of his service as Commission Bearer prior to his being regularised as a regular Server in 1981 should be considered for computing pension and other benefits. He has also challenged the impugned order dated 5.4.90 at Annexure-I indicating that in accordance with the extant orders of the Railway Board, 50 per cent of the service rendered as casual labour is only taken into account for pension and not the service as Commission Bearer.

2. The applicant has admittedly been serving as

Commission Bearer since 1962. He was absorbed as a regular Server in 1981. In case of casual labours, 50 per cent of casual service after attaining temporary status is counted as qualifying service for pension. The applicant claims similar benefit for him also. It has been argued that in T.A.K.316/87 by the judgment dated 28.2.90 a Division Bench of this Tribunal to which one of us (Shri AV Haridasan) was a party, it was declared that a Commission Bearer falls within the definition of Workmen under the Industrial Disputes Act as the master servant relationship between him and the Railways exists. If that be so, we see some merit in the applicant's plea that his service as a Commission Bearer from 1962 to 1981 cannot be treated less ^{favourably} ~~feasible~~ than that of a casual employee and counting of his previous service for pension to the same extent as the casual labour cannot be denied to him.

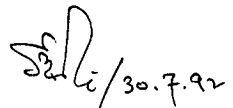
3. The learned counsel for the respondents stated that this is a policy matter involving considerable financial lay out and having nation-wide repercussion and therefore the policy decision at the highest level is called for. He has also pointed out that neither the Union of India nor the Railway Board who are directly ^{involved} ~~involving~~ in the outcome of this application have not been impleaded. The learned counsel for the applicant drew our attention to the representation dated 3.3.90 which the applicant has submitted to the General Manager, Southern Railway seeking the same relief as in this application. By the impugned order the same was rejected on the ground that the claim is not acceptable in view of the decision

of the Railway Board.

4. In the circumstances, we dispose of this application with the direction to the applicant to submit a detailed representation claiming the reliefs as in this application, addressed to the Railway Board^t through Ist respondent^t within a period of four weeks from the date of receipt of copy of this judgment and we also direct the respondent No.1 to forward the same to the Railway Board with appropriate remarks within a period of one month from the date of receipt of the representation. We hope and expect that the Railway Board will take a decision considering in detail the grounds mentioned in the representation and communicate the same to the applicant expeditiously. There will be no order as to costs.



(A. V. HARIDASAN)
JUDICIAL MEMBER



(S. P. MUKERJI)
VICE CHAIRMAN

30-07-92

ks30792.