

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 173 of 2000

Tuesday, this the 28th day of November, 2000

CORAM

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

1. K.G. Chandran,
Retired Railway Khalasi,
Kottikkal House, Pazhai PO,
Via Pudukkad, Thrissur District. ...Applicant

[By Advocate Mr. M.V. Mathew]

Versus

1. Union of India, represented by
General Manager, Southern Railway,
Madras-3

2. Chief Engineer (Construction),
Engineering Department,
Southern Railway, Madras - Egmore.

3. Executive Engineer (Construction),
Engineering Department,
Southern Railway, Guruvayoor.

4. Senior Divisional Personnel Officer,
Southern Railway,
Divisional Office, Trivandrum. ...Respondents

[By Advocate Mr. Mathews J. Nedumpara (rep.)]

The application having been heard on 28th of November, 2000,
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

The applicant seeks to quash A7, to issue a direction to the respondents to take into account his casual labour service from 17-12-1979 to 28-4-1980, 5-5-1980 to 28-5-1980 and 25-9-1980 to 31-12-1983 as per A1 service card, treat the same as qualifying service for pensionary benefits, grant him the benefits of pension, gratuity, etc. and to confer temporary status on him on the due date considering his casual labour service prior to 1-1-1984.

2. The applicant was engaged initially in the Construction (Engineering) Department of Southern Railway on 17-12-1979 as Mapila Khalasi. His engagement continued upto 28-4-1980. He was again engaged on 5-5-1980. Again he was disengaged since 28-5-1980. He was reengaged on 25-9-1980. Thereafter, he worked till 20-6-1985 as Man Mazdoor in the Construction Department. He was granted temporary status with effect from 1-1-1984. He was subsequently screened and empanelled for appointment as temporary Gangman in Group 'D'. His casual service prior to 1984 was ignored in toto. He is entitled to get considered the said periods also for his retiral benefits.

3. Respondents say that since the applicant was conferred with temporary status only on 1-1-1984, he cannot claim temporary status from a date prior to that. There is no prayer in the OA for grant of temporary status from a definite date. For the past 14 years he had not disputed the date of conferment of temporary status and hence, he cannot at this distance of time make a valid claim especially after the superannuation. Having accepted the temporary status conferment on 1-1-1984, he is estopped from taking a different stand. As the applicant has got only 9 1\2 years of qualifying service, he is not entitled to pension.

4. It is the admitted case of the applicant that he was granted temporary status with effect from 1-1-1984. The order issued by the authorities concerned granting temporary status to the applicant with effect from 1-1-1984 is not at all under challenge. Temporary status was conferred upon the applicant with effect from 1-1-1984 means it was done 16 years prior to the filing of this OA. For the past 16 years the applicant has

not made any whisper against the correctness of the date from which he was granted temporary status. Even now, as already stated, he does not challenge the same.

5. The applicant is relying on A5. A5 is an order passed by this Bench of the Tribunal in OA No. 1199/96. There it has been held that this Tribunal has been holding consistently that 50% of the period starting from temporary status to regularisation is to be considered as qualifying service for pensionary benefits. That has been done by the respondents. What the applicant now saying is that instead of reckoning 50% of the period from 1-1-1984, it should have been on completion of six months from the date of his engagement. Such a plea cannot be entertained in the light of non-challenging of the action of the respondents in granting temporary status to the applicant with effect from 1-1-1984. When the date of conferment of temporary status to the applicant with effect from 1-1-1984 is free from any challenge by the applicant, no plea to the effect that his conferment of temporary status should be taken from a date anterior to 1-1-1984 can be heard and accepted.

6. Respondents have taken into account the period with effect from 1-1-1984. Reckoning that period the qualifying service of the applicant comes only to 9 1\2 years, which is less than the minimum period of service required to qualify for pension.

7. A7 says that only 50% of the temporary status period can be reckoned from 1-1-1984 and hence the request to treat the service rendered earlier to the date of grant of temporary

status is not permissible for arriving at the qualifying service as per rules. I do not find any reason to interfere with the stand of the respondents in A7.

8. The third relief sought in the OA is to direct the respondents to confer temporary status to the applicant on the due date considering his casual labour service prior to 1-1-1984. The pleadings should be specific. The relief sought cannot be vague. The applicant cannot seek for a relief to direct the respondents in a vague manner. The third relief sought is not specific, but vague.

9. Accordingly, the Original Application is dismissed. No costs.

Tuesday, this the 28th day of November, 2000



A.M. SIVADAS
JUDICIAL MEMBER

ak.

List of Annexure referred to in this order:

1. A1 True copy of the casual labour service card issued to the applicant.
2. A5 True copy of the order dated 22-11-1996 in OA No. 1199/96 of CAT, Ernakulam Bench.
3. A7 True copy of the letter No. V/P-626/I/190/97 dated 1-12-1999.