

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

D.A. No. 186 of 1996.

Thursday this the 9th day of January 1997.

CORAM:

HON'BLE MR. P.V. VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

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

T. Krishnan,
Retired Erector Skilled
Artisan Grade III,
Office of the Depot Store Keeper,
(Construction),
South Eastern Railway,
Bokaro Steel City,
Residing at:

Pokkalanthodi House, Feroke P.O.,
Calicut District, Kerala State. .. Applicant

(By Advocate Shri VR Ramachandran Nair)

Vs.

1. Railway Board represented by
The Chairman,
New Delhi.
2. The General Manager,
South Eastern Railway,
Garden Reach, Calcutta-43,
West Bengal.
3. The Deputy Chief Personnel Officer,
(Construction),
Office of the Chief Administrative
Officer (Projects),
South Eastern Railway,
Chandrasekarpur, Bhubaneswar.
4. The Senior Project Manager,
South Eastern Railway, ADRA,
Adra P.O., Puruliya District,
West Bengal.
5. The District Project Manager,
South Eastern Railway,
Bokaro Steel City,
P.O. B.S. City-10,
Bokaro District, Bihar,
Pin-827 010. .. Respondents

(By Advocate Shri K.V. Sachidanandan(represented)

The application having been heard on 9th January 1997,
the Tribunal on the same day delivered the following:

ORDER

P.V. VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

Applicant was appointed as Casual Fitter on 7.4.70 and was granted temporary status on 1.1.81 (R-1). Applicant submits that there was a scheme to regularise persons like him against Permanent Construction Reserve Artisan Posts (PCR for short) created with effect from 1.4.84/1.4.88. Applicant retired on 30.4.95. By A-3 order respondents had clarified that persons like the applicant can be considered for regularisation subject to the passing of the required trade test. Applicant submits that he passed the required trade test in August 1991, and that he is entitled to be regularised with effect from 1.4.88 in terms of the clarification in A-3.

2. Respondents submit that during August 1991, a screening of casual/temporary status attained staff for absorption against 40%/60% of Permanent Construction Reserve Posts were conducted both in group 'D' and 'C' staff against Artisan posts. In terms of the then existing rule casual/temporary status attained staff whichever category they may belong to in terms of skill have to be screened only into group 'D' category for absorption. Respondents had called for the willingness from Artisan staff on 5.8.91 from persons who were working in higher grades than group 'D' category in the pay scale of Rs.750-940 for being screened in group 'D' category. Applicant was in such a category, but he did not opt for the initial screening in group 'D' category and therefore, respondents did not consider him for regularisation. Therefore, the applicant continued as a temporary status

attained Erector till his retirement on 30.4.96. Respondents, relying on Ram Kumar and others Vs. Union of India and others (AIR 1988 SC 390) and Paragraph 2511 of the Indian Railway Establishment Manual, state that no retiral benefits are available to temporary status casual labour or even to temporary Railway servants. According to respondents, the clarification A-3 issued on 29.5.95 was after the retirement of the applicant and would not apply to the applicant.

3. The short point to be considered is whether A-3 clarification is applicable in the case of applicant. The A-3 clarification refers to problems that have come up while implementing a letter dated 18.7.94 on which date applicant was in service. It is clarified in A-3 that temporary project casual labour Artisan staff continuing as such waiting for PCR regularisation as Artisan in terms of CPO's letter dated 18.7.94 are to be regularised on the basis of inter-se seniority reckoned according to the total length of service subject to passing of trade test. This itself clearly shows that the position as on 18.7.94 is to be considered and the date of clarification 29.5.90 has no relevance. Since the applicant was in service on 18.7.94 the clarification issued in A-3 would apply in his case. We, therefore, hold that the applicant is entitled to have his service regularised as Artisan with effect from 1.4.88 in the light of the trade test conducted during 1991 for such regularisation in terms of the scheme referred to in A-3.

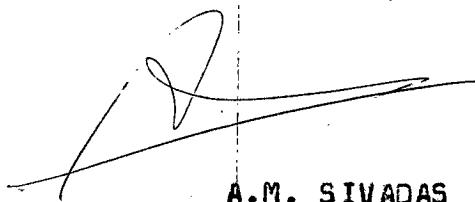
4. There is also a prayer regarding payment of death-cum-retirement gratuity. Respondents submit that a pay order for Rs.49,659/- had been sent on 13.5.96 for arranging the payment of gratuity but that payment could

not be made for want of certain declarations from the applicant. The applicant in his rejoinder submits that the required declarations have been sent and acknowledged by the office of the Senior Project Manager on 26.8.96. We consider that the delay in payment of the gratuity cannot be condoned and that the applicant who retired in April 1995 should not have been made to wait till 1997 for his gratuity. Accordingly, allowing a grace period of two months for considering the declaration submitted by the applicant, we direct interest on gratuity be paid at 18% from 1.11.96 till the payment of gratuity is affected. In any case the gratuity shall be paid to the applicant within three months from today. Second respondent will cause an enquiry to be made into the reason for delay in payment of gratuity and ensure that the penal interest ordered to be paid above is recovered from officials who are responsible for the delay.

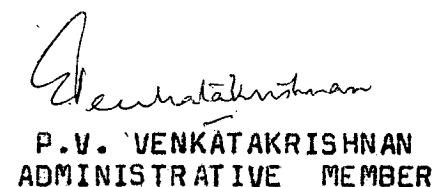
5. Respondents shall pass orders regarding the regularisation of the applicant in terms of the declaration made by us in para 3 above within three months. The other retirement benefits based on such regularisation of the applicant shall be computed and paid within six months of the date on which the orders of regularisation are passed by the respondents.

6. Application is allowed as above. No costs.

Dated 9th January, 1997.



A.M. SIVADAS
JUDICIAL MEMBER



P.V. VENKATAKRISHNAN
ADMINISTRATIVE MEMBER

LIST OF ANNEXURES

1. Annexure A-3
True copy of the order No.P/R/CL/POLY/Pt.VII dated 29.5.1995 issued by the Chief Personnel Officer (Administration), South Eastern Railway, Calcutta showing the manner of regularisation.
2. Annexure R-1
True extract of the service record of the applicant.

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