

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A. No. 189 of 1997.

Monday this the 6th day of July 1998.

CORAM:

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

E. Harry Williams,
Plaparambil Veedu,
Thennala, Kollam.

.. Applicant

(By Advocate Shri P.B. Suresh Kumar)

Vs.

1. Southern Railway, represented by
General Manager, Southern Railway,
Madras.
2. Divisional Railway Manager,
Southern Railway, Madurai.
3. Divisional Engineer,
Southern Railway, Madurai.
4. Divisional Personnel Officer,
Southern Railway, Madurai.

5. Permanent Way Inspector,
Southern Railway, Thennalai.

.. Respondents

(By Advocate Shri Thomas Mathew Nellimoottil, ACGSC)

The application having been heard on 6th July 1998,
the Tribunal on the same day delivered the following:

ORDER

Applicant seeks to declare that he is entitled to be paid pension for the period subsequent to the period covered by A-3 order of the Central Government Labour Court dated 15.5.93 and to direct the respondents to disburse the pension payable to him for the period after May 1991 with interest.

2. Applicant was working as Gangman under the respondents. He retired on 31.8.90. He says that he has got 15 years and 2 months of continuous service at his credit at the time of his retirement. He was not granted pension. He also submits that he was working as a substitute and the service of incumbent as substitute is liable to be reckoned for pension. Since the

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pension was not granted to him, he filed Claim Petition No.2/91 (C) before the Central Government Labour Court, Kollam seeking to determine the amount due to him by way of pension from September 1990 to May 1991 an amount of Rs.6,324/-. That Claim Petition was allowed as prayed for. That has become final. Though the applicant submitted A-4 representation dated 30.7.1995, the same remains undisposed even today. The pension for the period subsequent to May 1991 has not been paid to him.

3. The respondents resist the Petition contending that the applicant had only 8 years 8 months and 17 days' of service even going by the admitted case of the applicant that he attained temporary status with effect from 21.10.75. Since the applicant has not completed 10 years minimum service, is not eligible for pension. The Labour Court has passed ex-parte order. The applicant had put in only 7 years 2 months and 25 days' of qualifying service. An amount of Rs.6,324/- ordered by the Labour Court, was paid to the applicant.

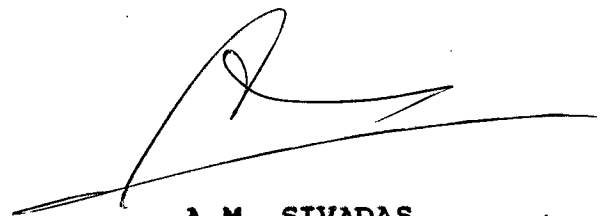
4. The learned counsel appearing for the applicant relying on A-3 order of the Central Government Labour Court, Kollam dated 15.5.93 submitted that the applicant is entitled to pension especially, since A-3 has become final. The learned counsel appearing for the respondents submitted that there is no declaration granted by virtue of A-3 order and therefore, A-3 has no binding force. Against A-3 order the respondents preferred O.A. 1368/94 before this Bench of the Tribunal and this Bench of the Tribunal as per R-3 dismissed the said O.A. There is no case for the respondents that appeal was preferred against R-3 order. That being so, A-3 order has become final. Though by virtue of A-3 there is no declaration, it is very much evident that the Central Government Labour Court found that the applicant is entitled to pension. It means that the respondents are liable to pay the applicant pension. The A-3 order was admittedly complied with by the respondents. So,

the position is that by virtue of A-3, applicant is entitled to pension and the respondents are liable to pay him pension and that stand has been accepted by the respondents. Now, the respondents cannot turn round and say that the applicant is not entitled to pension ignoring A-3. A-3 is between the same parties.

5. The respondents have not paid the pension due to the applicant after May 1991. Hence, the applicant is entitled to interest at 18% per annum on the pension amount due from June, 1991.

6. The Original Application is accordingly allowed declaring that the applicant is entitled to be paid pension for the period subsequent to the period covered by A-3 order dated 15.5.93 and directing the respondents to disburse the pension payable to him for the period from June 1991 with interest of 18% per annum within a period of three months of today. No costs.

Dated the 6th July 1998.



A.M. SIVADAS
JUDICIAL MEMBER