

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 192 of 1999

Friday, this the 22nd day of June, 2001

CORAM

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER
HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

1. PS Gayathrinathan,
S/o late KK Sridharan Pillai,
Retired Chief Permanent Way Inspector,
Southern Railway,
Residing at: "Aswathy",
Aroor Post Office, Alleppey District.Applicant

[By Advocate Mr. T.C. Govindaswamy]

Versus

1. Union of India, represented by the
Secretary to Government of India,
Ministry of Railways, Rail Bhavan, New Delhi.
2. The General Manager, Southern Railway,
Headquarters Office, Park Town PO, Madras-3
3. The General Manager (P),
South Eastern Railway, Garden Reach,
Calcutta.
4. The Divisional Personnel Officer,
Southern Railway, Palghat Division,
Palghat.Respondents

[By Advocate Mr. K. Karthikeya Panicker (not present)]

; The application having been heard on 22-6-2001, the
Tribunal on the same day delivered the following:

O R D E R

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

The learned counsel for respondents absent.

2. The applicant seeks the following reliefs:-

"(a) Declare that the applicant is entitled to reckon his entire service for the period from 10-12-1962 upto the date of his superannuation on 31-5-1995 as qualifying for pension and other retiral benefits and direct the respondents accordingly.

- (b) Direct the respondents to recalculate,refix and pay the applicant's pension and other retiral benefits on the basis of the declaration in para 8(a) above, forthwith.
- (c) Direct the respondents to pay the applicant penal interest @ 18% on the consequent arrears from the date from which the said arrears fell due, upto the date of actual payment.
- (d) Award costs of and incidental to this application.
- (e) Pass such other orders or directions as this Hon'ble Tribunal may deem fit, just and necessary in the facts and circumstances of the case."

3. The applicant is a retired Chief Permanent Way Inspector of Southern Railway. He superannuated from service on 31-5-1995. He initially joined Indian Railways in the Dandakaranya-Balangir-Kiriburu (DBK for short) Railway Project, Waltair as Work Supervisor on 10-12-1962. He was promoted as Assistant Inspector of Works with effect from 9-5-1963. While working in DBK Railway Project, he through proper channel applied before the Railway Service Commission, Madras for appointment as Assistant Inspector of Works in Southern Railway. Having been selected, he tendered his resignation from DBK Railway Project to take up appointment as Assistant Inspector of Works in Southern Railway. He was duly relieved on 1-3-1964 and accordingly he joined Southern Railway as Assistant Inspector of Works on 9-3-1964. At the time of his resignation, he was issued with A1 certificate. Respondents are bound to reckon his entire service from 10-12-1962 for the purpose of his pension and other retiral benefits upon his superannuation on 31-5-1995. Only his service from 9-3-1964 is reckoned for the purpose of retiral benefits. That is wrong.

4. In the reply statement filed by the 4th respondent it is stated that the applicant has come forward after a lapse of 32 years. A1 cannot be acted upon. As per service records maintained in the office of the 4th respondent, the applicant

was appointed as Apprentice Assistant Inspector of Works and posted from 10-3-1964. At the time of opening new service records on his appointment as such he has affixed his signature in the front page of the service register where the date of birth, date of appointment, etc. were recorded. It was the duty of the applicant to produce records regarding his previous service to the authority who appointed him and ensure that the same is recorded in the service register. He never produced any record during his entire service with regard to his service in DBK Railway Project. He never made any attempt to verify his service records.

5. The 3rd respondent in the reply statement says that the claim of the applicant is barred by limitation as well as laches. He has come forward after a lapse of 37 years. Successive representations cannot save limitation. Old records have been verified and could not locate any record pertaining to the DBK Railway Project where the applicant is said to have worked in order to verify the genuineness of the claim.

6. From A2 it is seen that the applicant submitted a representation dated 19-8-1996 and A2 is issued in response to the same. It is issued by the 4th respondent. It says that there is no entry anywhere to the effect that the applicant had worked in the DBK Project prior to his appointment in the Railways. A3 is the copy of the representation submitted by the applicant dated 5-12-1996 to the 3rd respondent. The learned counsel appearing for the applicant submitted that there was no response to A3.

7. After submitting A3 the applicant could have waited for six months for a reply and if no reply is received, if he is aggrieved, he should have approached the Tribunal within one

year thereafter. That being the position, the applicant ought to have approached the Tribunal at least by 5-6-1998. This OA was filed only on 15-2-1999. It is well settled that successive representations cannot save limitation.

8. It is also pertinent to note that the applicant during his service has not raised any objection on this aspect and only after his retirement on 31-5-1995 for the first time he raised this point, as borne out from A2 only, as per representation dated 19-8-1996.

9. The applicant is heavily relying on A1. A1 is a certificate issued by the District Engineer, DBK Railway Project, wherein it is stated that the applicant has worked in DBK Railway Project with effect from 10-12-62 to 8-5-63 as Work Supervisor, that he was promoted as Assistant Inspector of Works with effect from 9-5-63 and that during the said period he was found hardworking and honest apart from his character and conduct being very good. The stand of the applicant is that when he was selected for the post of Assistant Inspector of Works by the Railway Service Commission, Madras, he tendered his resignation to DBK Railway Project to take up assignment as Assistant Inspector of Works and he was duly relieved on 1-3-1964. If that is so, there will be a certificate issued to the effect that the applicant's resignation for the purpose of taking up the new assignment has been accepted and he has been relieved. That is the best piece of evidence to support the stand of the applicant. He has not produced the same. A1 cannot be a substitute for the certificate/order showing that the applicant has been relieved after having accepted his resignation for the purpose of taking up the new assignment in the Southern Railway. So, the basic factor required to be proved by the applicant, he has failed to prove.

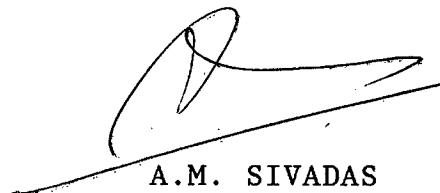
10. Respondents have taken a specific stand that the applicant did not produce any record showing his previous service in DBK Railway Project at the time of his appointment in Southern Railway. If that is so, the applicant has to face the consequences. As per the provisions, the applicant gets an opportunity to see his service register every year. In the service register of the applicant maintained by the Southern Railway, if his previous services are not entered, he should have alerted himself at the right time. It cannot be done after a lapse of three decades. In the circumstances, this Original Application is only to be dismissed.

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

Friday, this the 22nd day of June, 2001



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.M. SIVADAS
JUDICIAL MEMBER

ak.

List of Annexure referred to in this order:

1. A1 True copy of the certificate issued by the District Engineer, Dandakaranya -Balangir-Kiriburu Railway Project, Dantewara.
2. A2 True copy of the letter bearing No. J/P.509/IX/ PSG dated 10-9-96 issued by the 4th respondent.
3. A3 True copy of the representation dated 5-12-96 submitted by the applicant to the 3rd respondent.