

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A.No.198/97

Monday, this the 26th day of May, 1997.

CORAM:

HON'BLE MR AV HARIDASAN, VICE CHAIRMAN

HON'BLE MR PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

R Viswanathan,  
'Sree Valsam'  
Kaithavana Housing Colony,  
Kaithavana, Alleppey-3. - Applicant

By Advocate Mr K Padmanabhan

Vs

1. Union of India represented by  
General Manager,  
Southern Railway,  
Madras-3.
2. Chief Engineer(Construction),  
Engineering Department,  
Southern Railway,  
Madras-Egmore.
3. Deputy Chief Engineer(Construction),  
Engineering Department,  
Southern Railway,  
Ernakulam Junction.
4. Divisional Personnel Officer,  
Southern Railway,  
Divisional Office,  
Trivandrum. - Respondents

By Advocate Mr James Kurian

The application having been heard on 26.5.97 the  
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR AV HARIDASAN, VICE CHAIRMAN

The applicant who commenced service as a Casual Labourer  
initially on 16.5.58 absorbed in regular service as a Gangman on  
17.8.75 and eventually retired from service on superannuation on

29.2.96, is aggrieved by the fact that the Railway Administration has refused to reckon half the period of service rendered by him after attainment of temporary status as qualifying service for pension and other pensionary benefits. His representation claiming this benefit was rejected by the impugned order dated 16.1.97 which told him that as per the extant rules, project casual labourers' service could not be counted as qualifying service for pension. The applicant has therefore filed this application for a direction to the respondents to take into account the applicant's casual service from 16.5.58 to 8.2.61, 20.2.61 to 26.12.66 and 2.1.67 to 17.8.75 for the purpose of computing his retirement benefits and to revise the pensionary dues accordingly.

2. The respondents have filed a reply contesting the claim. As the issue involved in this case is quite simple and as it relates to the pension of a retired employee, the counsel on either side agreed that the application may be finally disposed of at this stage itself. Accordingly we have heard the learned counsel on both sides.

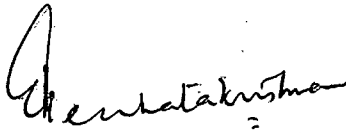
3. In the reply statement, the claim of the applicant for counting half the period of casual service after attainment of temporary status as qualifying service for pension is resisted on the ground that as per the extant rules, the service rendered by project casual labourers cannot be counted for the purpose of pension. The Annexure-R1 letter of the

Railway Board dated 28.11.86 clearly shows that the benefit of counting half the period of service after attainment of temporary status towards qualifying service for pension has been extended even in the case of project casual labourers, if the casual labour service is followed by absorption in the regular service. In the light of the above decision of the Railway Board, it is idle for the Railway Administration to contend that the applicant is not entitled to count half the period of casual service after attainment of temporary status towards qualifying service for pension. The argument of the respondents is that the applicant has never been granted temporary status. According to the rules governing the benefit of temporary status, a casual labourer who has put in continuous service of six months is entitled to temporary status. It is this benefit that has been extended to the project casual labourers by the letter of the Railway Board dated 28.11.86. Therefore the mere fact that the Railway Administration had not issued any order conferring upon the applicant temporary status after his continued service for six months cannot be held out as a reason for denying the benefit of counting the half service thereafter as qualifying service for pension to which he is entitled as per the Railway Board's own decisions and instructions.

4. In the light of the above discussion, we dispose of this application with a direction to the respondents to confer temporary status on the applicant with effect from

the date on which he completed six months of continuous casual service <sup>ad</sup> to recompute the pensionary benefits reckoning half period from the date on which the temporary status is attained by him. The above exercise should be completed and the revised pension payment order issued and the monetary benefits flowing therefrom made available to applicant within a period of four months from the date of communication of this order. No costs.

Dated, the 26th May, 1997.

  
PV VENKATAKRISHNAN  
ADMINISTRATIVE MEMBER

  
AV HARIDASAN  
VICE CHAIRMAN

trs/265

LIST OF ANNEXURE

1. Annexure R-1: True copy of the letter No.E(NG) 11/85/CL/6 dated 28.11.1986 from Sri. M. Kujur, Deputy Director, Establishment(N), Railway Board, New Delhi addressed to the General Managers, All Indian Railways.

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CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

OA 198/97

Thursday the 6th day of July, 2000.

CORAM

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

R.Viswanathan  
'Sree Valsam'  
Kaithavana Housing Colony  
Kaithavana, Alleppey-3

Applicant

By advocate Mr K.Padmanabhan

Versus

1. Union of India represented by the  
General Manager, Southern Railway  
Madras.
2. Chief Engineer (Construction)  
Engineering Department  
Madras-Egmore  
Southern Railway
3. Deputy Chief Engineer(Construction)  
Engineering Department  
Southern Railway  
Ernakulam Junction.
4. Divisional Personnel Officer  
Southern Railway  
Divisional Office  
Trivandrum.

Respondents.

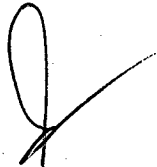
By advocate Mr James Kurian

The application having been heard on 6th July, 2000,  
the Tribunal on the same day delivered the following:

O R D E R

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

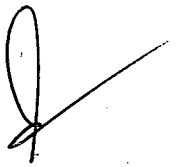
Applicant seeks to quash A-4, to direct the respondents to take into account his casual labour service from 16.5.58 to 8.2.61, 20.2.61 to 26.12.66 and 2.1.67 to 17.8. 75 as per A-1 service card, to treat the same as qualifying service for all pensionary benefits and grant him the benefit of the said service also for pension, gratuity etc.



2. Applicant says that he initially joined the Railway Department on 16.5.58 as special Khalasi on daily wages and worked under the Inspector of Works/I/Ernakulam Junction upto 8.2.61. He was engaged again from 20.2.61 as Mate on daily wages. He was settled from service on 26.12.66. He was reappointed on 2.1.67 as technical mate during his casual service and thereafter continued upto 17.8.75. During this period he worked in other construction offices also. While working in the said capacity in the Construction Department, he was absorbed on regular Gangman to work in the open line.

3. Respondents contend that the applicant was a project casual labourer prior to 1975 and he was not granted temporary status. His service from 16.5.58 to 17.8.75 cannot be counted for pension and pensionary benefits since he was a casual labourer during the said period.

4. It is the definite case of the respondents that the applicant was a project casual labourer prior to 1975. There is no rejoinder filed by the applicant denying this contention. There is no material also which will conclusively prove produced by the applicant that he was not in the project. A-1 shows that for the period from 21.3.70 to 20.6.73 the applicant was working under Inspector of Works (Doubling) Southern Railway, Ernakulam Junction. "Doubling" is a project work. So A-1 will specifically go to the extent of showing that from 21.3.70 the applicant was working in project. As far as service prior to 21.3.70 is concerned, there is nothing to show that he was not in project.

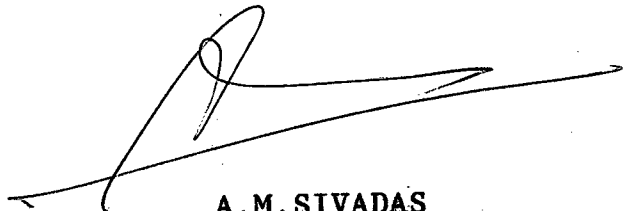


5. In this situation, there is no reason to disbelieve the stand of the respondents that the applicant was project casual labourer prior to 1975. That being so, in the light of the dictum laid in Union of India & others Vs. K.G.Radhakrishna Panickar & others' case 1998 SCC L&S 1281, this OA is liable to be dismissed.

Accordingly, the OA is dismissed. No costs.



G.RAMAKRISHNAN  
ADMINISTRATIVE MEMBER



A.M.SIVADAS  
JUDICIAL MEMBER

aa.

Annexures referred to in this order:

- A-4: True copy of letter No.P509/CN/ERS dated 16.1.97 issued by the third respondent to the applicant.
- A-1: True copy of service card showing the casual labour service of the applicant.