

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.202/08

Friday this the 27th day of March 2009

C O R A M :

HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER

V.Augustin,
S/o.Vincent Augustin,
Retired GK/PWI/MVLK, Southern Railway.
Residing at Rejaniland, Clappana South,
Clappana P.O., Karunagappally – 690 525.

...Applicant

(By Advocate Mr.T.N.Sukumaran)

Versus

1. Union of India represented by the General Manager,
Southern Railway, Park Town, Chennai – 3.
2. Divisional Railway Manager (Personnel),
Divisional Railway Manager's Office,
Personnel Branch,
Thiruvananthapuram Division.

...Respondents

(By Advocate Mr.Thomas Mathew Nellimoottil)

This application having been heard on 27th March 2009 the Tribunal
on the same day delivered the following :-

ORDER

HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER

The reliefs sought by the applicant in this O.A is to grant him gratuity
with interest for the period from 10.4.1972 to 22.10.1978 under Payment of
Gratuity Act, 1972 in terms of Annexure A-5 Railway Board Establishment
Circular No.130/2000 No.E(LL)86/AT/GRA/1-2 dated 30.6.2000.
According to the said circular, where a retired employee is eligible to draw
gratuity under the provisions of the Payment of Gratuity Act, 1972 for the
period of service prior to grant of temporary status, the same shall be
worked out on the basis of emoluments admissible on the date preceding



the date on which he was granted temporary status. The amount of gratuity thus worked out shall be paid along with the interest at the rate specified above for the period of delay i.e., from the date it became due for payment following grant of temporary status upto the end of the month preceding the date on this the payment is made. The Railway Administration is to take steps suo moto to examine all the past cases on the basis of records available and to settle the claims accordingly. All the claimants were also to be suitably addressed on the basis of particulars available with the Railways, so that they or their legal heirs can claim the payment without delay. The Railway Administration is also required to extend all assistance to the retired as well as the serving Railway servants to exercise their option judiciously in order that the option exercised is advantageous to them.

2. The applicant retired from the Railway service on superannuation on 28.2.2006. According to the applicant, he had rendered casual service for the period from 10.10.1972 to 5.12.1983. Thereafter, his services was regularised with effect from 6.12.1983. In support of his claim he has produced Annexure A-1 letter dated 2.5.1984 issued by the Divisional Office, Personnel Branch, Trivandrum showing "the empanelment of casual labourers against the vacancies as on 31.12.1982 in AEN/QLN Sub Division, Civil Engineering Department". By the said letter 73 casual labourers/substitutes working under the territorial jurisdiction including Construction Organisation under AEN/QLN Sub Division of TVC Division were screened and empanelled by a duly constituted Screening Committee for appointment as Temporary Gangman (Group D) in scale Rs.200-250 in AEN/QLN Sub Division against vacancies as on 31.12.1982. The




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applicant's name appears at Sl.No.51 of the said panel which shows that he was initially appointed on 10.4.1972 and he has 3852 days of total aggregate service at his credit. The only condition for such empanelment was that the applicant had to produce his date of birth certificate. The applicant however, has submitted that the respondents had already taken over all his service records relating to the casual labour service rendered by him before his name was included in the aforesaid Annexure A-1 panel and, therefore, he could not produce it again.

3. The applicant has also relied upon the order of this Tribunal in a similar case O.A.358/08 – T.Chellappan Vs. Union of India & Others decided on 3.2.2009. The operative part of the said order is as under :-

“4. Heard Shri.T.N.Sukumaran for the applicant and Shri.K.M.Anthru for the respondents. Admittedly, the aforesaid directions of the Railway Board has not been followed by the respondents' Railway in the case of the applicant. I, therefore, direct that the respondents shall comply with the directions of the Railway Board contained in the aforesaid Circular No. No.130/2000 dated 30.6.2000 (Annexure A-1) in the case of the applicant without any further delay. Since the applicant has already retired from service and he was a low paid employee, an official from the Welfare Department of the Railways shall be deputed to assist the Government servant to exercise his option judiciously as ordered by the Railway Board in their Circular. The benefits arising out of the said circular shall be made available to the applicant within a period of three months from the date of receipt of a copy of this order. There shall be no order as to costs.”

4. Respondents in their reply statement submitted that the applicant has not produced or annexed any proof for his claim that he has worked as a casual labourer from 10.4.1972 to 22.10.1978 the period for which he has claimed gratuity under the Payment of Gratuity Act, 1972 and he has also not produced his Date of Birth certificate from the civil authorities.



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5. I have heard counsel for the parties. Counsel for the respondents has not disputed the authenticity of Annexure A-1 letter. There is also no dispute that he was granted temporary status with effect from 23.10.1978. Therefore, there is no merit in the submissions of the respondents at this belated stage that the applicant has not produced any documentary proof regarding his casual labour service from 10.4.1972 to 22.10.1978. Further, the respondents thereby have produced a copy of Office Order No.107/79/WP dated 11.6.1979 (Annexure R-1) showing that the applicant who was a project casual labourer of TVC-ERS conversion project was granted temporary status and revised scale of pay at Rs.196/- p.m in scale of Rs.196-232 with effect from 23.10.1978.

6. In the above facts and circumstances of the case, I declare that the applicant is entitled for payment of Gratuity with interest for the period from 10.4.1972 to 22.10.1978 in terms of Annexure A-5 circular of the Railway Board. The respondents shall comply with the directions of the Railway Board contained in the aforesaid circular without any further delay. Since the applicant has already retired from service and he was a low paid employee, an official from the Welfare Department of the Railways shall be deputed to assist the Government servant to exercise his option judiciously as ordered by the Railway Board in their circular. The benefits arising out of the said circular shall be made available to the applicant within a period of three months from the date of receipt of a copy of this order. There shall be no order as to costs.

(Dated this the 27th day of March 2009)


GEORGE PARACKEN
JUDICIAL MEMBER

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