

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.NO.223/2000

Thursday this the 27th day of July, 2000

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

A.V.Kunhiraman,
S/o late Perachan,
aged 60 years
Retired Keyman, Permanent Way Inspector's office,
Quilandi, residing at Ackamveetttil House,
Tikkoti PO, Kozhikode District. ..Applicant

(By Advocate Mr. V.R.Ramachandran Nair)

Vs.

1. Union of India represented by the General Manager, Southern Railway, Madras.
2. Divisional Personnel Officer, Southern Railway, Palghat.

(By Advocate Mr. Mathews J Nedumpara (rep. by Mr. Devy)

The application having been heard on 27.7.2000, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

The applicant who retired from Railway Service as a Keyman under the Permanent Way Inspector, Quilandy on 30.6.97 is aggrieved that a portion of his service has been left out while fixing his pension and therefore, he has filed this application for a direction to the respondents to revise his pensionary benefits reckoning fifty percent of service from the date of attainment of temporary status as



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qualifying service for pension and to count the full period from 6.1.70 till the date of his superannuation as qualifying service for pension.

2. The applicant's case is that he commenced service as a Casual Labourer on 21.9.61, that he continued as a casual labourer interruptedly only by few days break for want of work, that he became entitled to temporary status on expiry of a period of four month from 21.9.61, that he was appointed as a substitute Gangman with effect from 6.1.70 that he was regularised as a Gangman with effect from 31.7.75, that as early as in the year 1990 he had requested that the details of his service as temporary status casual mazdoor and substitute might be recorded, that he was informed by order dated 28.5.1990 (Annexure.A3) that his casual service with effect from 21.9.61 and substitute service with effect from 6.7.70 had already been recorded, but the respondents wrongly fixed his pension initially counting only twenty four years six months and four days, but later on his representation revising it to twenty six years, seven months and twenty days, that the grievance of the applicant still continues and that he is entitled to have his pension worked out reckoning half the period of service after attainment of temporary status on continuous engagement as casual labourer from 21.9.61 and full service from 6.1.70 and that the respondents are bound to revise the pension accordingly.

3. The respondents in their reply statement contend



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that the Original Application is not maintainable as it has been filed beyond the period of limitation, that the applicant was granted temporary status with effect from 6.7.70, that he was thereafter posted as substitute Gangman with effect from 1.3.71, that he was appointed on a regular post of Gangman on 31.7.75 and that on receipt of his representation, the whole of his service from 1.3.71 to 30.6.97 and 50% from 6.7.70. to 1.3.71 has been taken into account for working out the pensionary benefits, that the claim of the applicant that he is entitled to temporary status on expiry of four months from 21.9.61 basing on the casual labour card Annexure.A1 cannot be allowed the genuineness of the casual labour card is not beyond doubt and that the applicant is not entitled to the relief claimed. It has also been contended that the applicant himself has submitted statement showing details of the members of the family on 5.6.97 (Annexure.R1) wherein the date of his temporary status and regular appointment have been shown as 6.1.70 and 31.7.75.

4. The applicant in his rejoinder has contended that ever since he commenced service as casual labourer on 21.9.61 he was engaged for the same type of work in the gang and that just for the reason that he was not given the scale rate of pay after expiry of a period of six months, he cannot be denied the benefit of service for the purpose of fixation of pension. Annexure.R.1 details has been written by the Railway officials in which he was asked to sign and therefore, the same cannot be taken as admission on the part



of the applicant regarding the commencement of his service, submits the applicant.

5. I have very carefully gone through the pleadings and the documents placed on record. I have also verified the original of the casual labour card pertaining to the applicant produced by the learned counsel for the applicant for my perusal. It is evidenced from the original casual labour card that this is an authentic document signed by the Permanent Way Inspector and initialled periodically. In Annexure.A3 letter dated 28.5.1990 issued by the Permanent Way Inspector, Quilandy, it has been stated that the applicant's service as a casual labour from 21.9.61 and service as temporary Gangman with effect from 6.7.70 have already been recorded. In the letter of the Permanent Way Inspector dated 10.10.90 (Annexure.A4) it is seen that the applicant was appointed as a substitute Gangman with effect from 6.1.70 but qualified it as purely temporary. It is evident from this document that the applicant commenced his service as casual labourer on 21.9.61 and that he was appointed as a substitute gangman with effect from 6.1.70. It is admitted by the respondents that on continuous 120 days casual labour service for the same nature of work would be entitled to be granted temporary status. The contention of the applicant that the applicant was put to the same nature of work in the Gang has not been specifically denied or disproved by production of any document by the respondents. It is seen that from 21.2.63 upto 20.10.63 the applicant has continuous service and on 22.6.63 the applicant has completed 120 days of continuous service as

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casual labourer. Therefore, the applicant having rendered a continuous service of 120 days as on 22.6.63 he became entitled to the award of temporary status on that date. Therefore, the service with effect from that date of the applicant till 6.1.70 on which date he was appointed as substitute Gangman is required to be counted as qualifying service for pension. Further as a substitute, the applicant would become eligible for temporary status on 6.5.70. So fifty percent of service from 6.1.70 to 6.5.70 also has to be counted. The service of the applicant from 6.5.70 ie., the date on which he acquired temporary status as substitute till the date of his superannuation has to be reckoned as qualifying service for pension. Therefore, the respondent is required to reckon fifty cent of the applicant's service from 22.6.63 to 5.5.70 and the whole service thereafter till the date of his superannuation as qualifying service for pension. This has not been done. The contention of the respondents that the claim is barred by limitation is without force. The counting of service for the purpose of reckoning the qualifying service for pension would become relevant only on the date of retirement. The applicant retired on 30.6.97. Immediately thereafter he has raised the dispute and it because of his pension was not properly fixed that he has filed this application. Therefore, the plea of limitation has to be rejected.

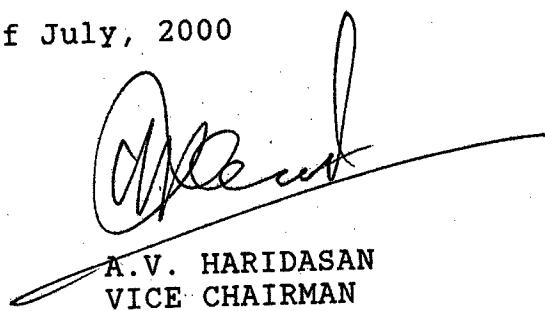
6. In the result, the application is allowed in part. The respondents are directed to revise the pensionary benefits of the applicant counting half of the period of his service from 22.6.63 to 5.5.70 and the entire period

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thereafter till the date of retirement as qualifying service for the purpose of pension. The revised pensionary benefits calculated accordingly shall be made available to the applicant as expeditiously as possible at any rate within a period of three months from the date of receipt of a copy of this order. There is no order as to costs.

Dated the 27th day of July, 2000



A.V. HARIDASAN
VICE CHAIRMAN

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List of annexures referred to:

Annexure.A1:True copy of the service card of the applicant showing the service from 21.9.61 to 5.1.1970 issued by the Permanent Way Inspector, Southern Railway, Quilandi.

Annexure.A3:True copy of the reply letter No.PCF-17/177/AVk dated 28.5.1990 issued by the permanent way inspector, Quilandi to the applicant that the applicant is well in service with effect from 21.9.1961 as casual labourer and w.e.f. 6.7.1970 as temporary gangman.

Annexure.,A4:True copy of letter No.PCF.17/177/AVk dated 10.10.1990 issued by the Permanent Way inspector, Quilandi showing the service of the applicant from 6.1.1970 as purely temporary.

Annexure.R.1:Statement showing the details of members of family for the purpose of Family Pension Scheme, 1964.

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