

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.24/04

Wednesday this the 10th day of November 2004

C O R A M :

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

K.K.Karthiayani,
W/o.late Kunju Panicker,
(Rtd. Senior Gang Woman),
Gang No.8/Mavelikkara, Southern Railway.
Residing at : Vadakkekare House,
Ponakam, Mavelikkara, Alleppey Dist.

Applicant

(By Advocate Mr.T.C.Govindaswamy)

Versus

1. Union of India represented by
the General Manager, Southern Railway,
Head Quarters Office, Park Town P.O.,
Chennai - 3.
2. The Senior Divisional Personnel Officer,
Southern Railway, Trivandrum Division,
Trivandrum.

Respondents

(By Advocate Mrs. Sumathi Dandapani)

This application having been heard on 10th November 2004
the Tribunal on the same day delivered the following :

O R D E R

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

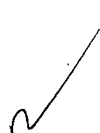
The applicant a retired Senior Gang Woman has filed this application projecting the grievance that her qualifying service for the purpose of pension has been wrongly reckoned as 19 years and 6 months as against 24 years and 6 months and has prayed that it may be declared that the applicant is entitled to reckon the service from 21.11.1978 to 31.5.2003 as a whole for the purpose of pension and for a directions to the respondents to recalculate and revise the applicant's pension and other retirement benefits accordingly. The applicant has alleged that she commenced casual service in the open line on 23.9.1967, that she was granted temporary status with effect from 23.10.1978, that from

21.11.1978 onwards her service was continuously utilised against permanent or temporary vacancies of Gang Woman under the Permanent Way Inspector/Mavelikkara, that she was regularly appointed as Gang Woman with effect from 5.12.1988, that she retired from service on 31.5.2003 and that in terms of the rules on the subject her entire service from 21.11.1978 till 31.5.2003 should have been reckoned as qualifying service and therefore the computation of her qualifying service for the purpose of pension only at 19 years and 6 months is erroneous and unsustainable.

2. Respondents in their reply statement contend that the applicant was granted temporary status with effect from 23.10.1978, that there has not been any change of status for the period from 23.10.1978 to 4.12.1988 as contended by the applicant, that the applicant having been only a temporary status Casual Mazdoor till the date of her absorption she was entitled to have half the period between 23.10.1978 to 5.12.1988 reckoned as qualifying service for pension and that the calculation made in the sheet attached to the P.P.O. is perfectly correct and does not call for any intervention.

3. The applicant has filed a rejoinder reiterating the contention raised in the application.

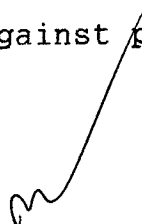
4. I have carefully gone through the material available on record and have heard Shri. T.C.Govindaswamy learned counsel of the applicant and Smt.Sumathi Dandapani learned counsel for the respondents. I have also perused the Service Register of the applicant made available by the learned counsel for the



respondents. Shri. T.C.Govindaswamy, learned counsel of the applicant, inviting my attention to the copy of the Casual Labour Card (Annexure A-2) in which from 21.11.1978 to the date of absorption no detail of engagement has been shown argued that the probabilities are that the applicant's services were utilised continuously against permanent or temporary vacancies and, if that is so, in terms of the definition of the word "Substitute" contained in Sub Rule 26 of Rule 3 of Railway Service Pension Rules 1993 the character of the applicant's service during the period should be treated as a substitute and the applicant is entitled to reckon the entire period as qualifying service for pension in terms of Rule 32 of the Railway Service Pension Rules.

5. Smt.Sumathi Dandapani, on the other hand, argued that either in the Casual Service Card (Annexure A-2) or in the Service Register of the applicant there is no indication that the applicant's services have been utilised for the period in question against permanent or temporary vacancies, while the indication is that the applicant was only a R/S Khalasis there is no substance in the claim of the applicant that her service has been utilised against permanent or temporary vacancies.

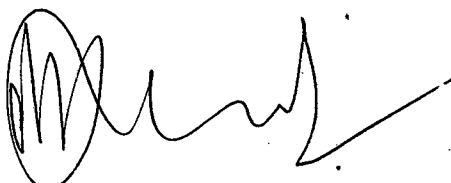
6. I find that the applicant has not been able to establish by any document that from 21.11.1978 she was continuously working against permanent or temporary vacancies. The absence of the detail of engagement from 21.11.1978 till the date of regular absorption in the Casual Labour Card may lead to doubt as to what was the details of engagement during the period, but that does not establish the disputed statement that the engagement was against permanent or temporary vacancy. The applicant one year



after the grant of temporary status would have been subscribing to Provident Fund as also would be a member of the Railway Servant Cooperative Society. If the applicant had been working against permanent or temporary vacancies such details might be available in the receipt for making payment to the society or subscription towards Provident Fund. The applicant has not been able to produce any document to establish the disputed claim.

7. In the light of what is stated above I find that the applicant has not been able to prove that during the period from 21.11.1978 till the date of her regular absorption her service was utilised against permanent or temporary vacancies and that she was therefore entitled to have the said periods as a whole treated as qualifying service for pension. In the result, the application fails and the same is dismissed leaving the parties to bear their own costs.

(Dated the 10th day of November 2004)



A.V. HARIDASAN
VICE CHAIRMAN

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