

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA 242/96

Thursday the 6th day of July, 2000.

CORAM

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

M.M.Paul
S/o Mathan
Ex-Gate Keeper/Mulanthuruthy
Residing at Parakkattuveliyil House
Chethicaud P.O., Kanjiramattam

Applicant

By advocate Mr T.C.Govindaswamy

Versus

1. Union of India represented by the General Manager Southern Railway, Madras.
2. The Divisional Personnel Officer Southern Railway, Trivandrum.
3. The Chief Personnel Officer Southern Railway Park Town P.O.Madras.

Respondents

By advocate Mr Thomas Mathew Nellimootttil

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 declare that he is eligible to have 50% of his casual service from 27-6-1973 to 31-12-76/20-4-79 and the whole of his service from 1-1-77 /21-4-79 to 31-5-87 treated as qualifying for pension and that he is eligible for pensionary benefits from the date of his superannuation with all attendant benefits and direct the respondents accordingly.

2. Applicant says that he was engaged from 27-12-72 in the construction project and continued without break and interruption in the project. He also says that he has a



casual service in the project from 27-12-72 and his services from 27-6-73 to 31-12-76 should be reckoned for the purpose of pension to the extent of 50% and from 1-1-77 to 31-5-87 fully for pension.

3. Respondents contend that the applicant was having qualifying service of eight and half years only duly counting 50% of casual labour service from 23-10-78 to 20-4-79 and full service from 21-4-79 to 31-5-87 after deducting non-qualifying service of 6 days. As he had not put in 10 years of qualifying service, he was not granted pension.

4. Since the specific case of the applicant is that he was a casual labourer in the project, the issue is squarely covered by the ruling in Union of India & others Vs. K.G.Radhakrishna Panickar & others' case 1998 SCC L&S 1281.

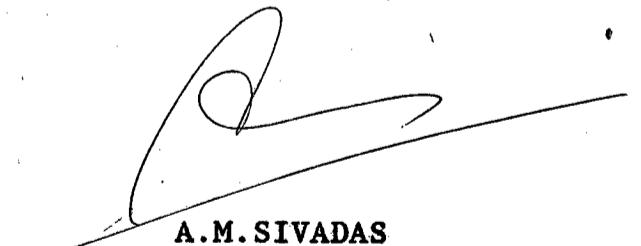
5. In the light of the dictum laid down in Radhakrishna Panickar's case, this OA is only to be dismissed. Accordingly, the OA is dismissed. No costs.

Dated 6th July, 2000.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER

aa.



A.M. SIVADAS
JUDICIAL MEMBER

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 242 of 1996

Monday, this the 26th day of May, 1997

CORAM

HON'BLE MR. PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER
HON'BLE MR. AM SIVADAS, JUDICIAL MEMBER

1. M.M. Paul, S/o Mathan,
Ex-Gate Keeper/Mulanthuruthy.
Residing at Parakkattuveliyil House,
Chethicaud PO, Kanjiramattam. .. Applicant

By Advocate Mr. T.C. Govindaswamy

Versus

1. Union of India through the
General Manager,
Southern Railway, Madras-3

2. The Divisional Personnel Officer,
Southern Railway,
Trivandrum-14

3. The Chief Personnel Officer,
Southern Railway,
Park Town PO, Madras-3 .. Respondents

By Advocate Mr. Thomas Mathew Nellimootttil (represented)

The application having been heard on 26-5-1997, the
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

Applicant is a retired Gate Keeper, who was initially engaged as a casual labour on 21-10-1963. He continued in the open line establishment upto 20-12-1972 and thereafter he continued in a construction project without break. He was granted temporary status on 23-10-1978. He was regularised on 21-4-1979. On retirement his pension was calculated

contd...2.

taking into account 50 per cent of the casual service rendered from 23-10-78 to 21-4-79. Applicant submits that he is entitled to get his pension fixed taking into account 50 per cent of the casual service from 27-6-73, the date on which he completed six months of continuous casual service, to 21-4-79, the date of his regularisation. Applicant relies on A-6 judgment of the Tribunal in O.A. No. 569/90 and connected cases.

2. The respondents submit that according to the rules 50 per cent of the casual service from the date on which temporary status was granted alone is liable to be reckoned for calculating the pension and that the pension had been correctly calculated according to the rules. Respondents also submit that the decision of the Madras Bench of the Tribunal in OA.No. 485/89 based on which the claims similar to that of the applicant have been decided by the Tribunal has itself been declared 'per incuriam' by the Madras Bench in OA No. 456/93 and, therefore, the applicant is not entitled to any benefits relying on the judgment of the Madras Bench in OA No. 485/89.

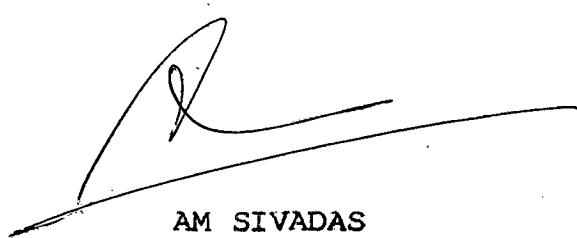
3. We find from the judgment A-6 that the Ernakulam Bench of the Tribunal had concluded independently of the decision of the Madras Bench that applicants therein were entitled to count half of their casual service after completing six months of such service for the purpose of pension. The Tribunal also states that the benefit of counting casual service for pensionary benefits was extended to casual labourers who attained temporary status

and that importing the words 'temporary status' in the scheme as originally approved by the Hon'ble Supreme Court in Inderpal Yadav's case, is without authority resulting in great disadvantage of the project casual labour for whose benefit the Supreme Court approved the scheme. The Tribunal has therefore agreed with the judgment of the Madras Bench of the Tribunal. The declaration of the decision of the Madras Bench in OA No. 485/89 as 'per incuriam' in OA No. 456/93 will not change the position set out in A-6 decision.

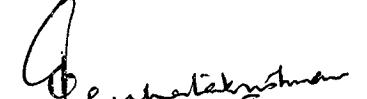
4. We accordingly follow the decision of the Tribunal in OA No. 569/90 and connected cases and declare that the applicant is entitled to count 50 per cent of his casual service from 27-6-1973 to 21-4-1979 for purpose of computation of pension and pensionary benefits. Respondents are directed to re-compute the pension and pensionary benefits of the applicant in terms of the above declaration and pay him the arrears of pension and pensionary benefits within a period of three months from today.

5. Application is allowed as above. No costs.

Dated the 26th of May, 1997



AM SIVADAS
JUDICIAL MEMBER



PV VENKATAKRISHNAN
ADMINISTRATIVE MEMBER

LIST OF ANNEXURE

1. Annexure A6 : True copy of the Judgement in OA 569/90
dt. 5-2-93 passed by the Central Administrative
Tribunal, Ernakulam Bench.

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