

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA 246/98

Wednesday the 4th day of August 1999.

CORAM

HON'BLE MR G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

C.Chinnaswamy
S/o Chenniamalai Gounder
Khalasi, C/o Inspector of Works
Southern Railway, Erode
(By advocate Mr P.Ramakrishnan)

....Applicant.

Versus

1. Union of India represented by the Secretary, Ministry of Railways New Delhi.
2. The General Manager Southern Railway Madras.
3. The Divisional Personnel Officer Southern Railway Palakkad.

...Respondents.

(By advocate Mr P.A.Mohammed)

The application having been heard on 4th August 1999, the Tribunal on the same day delivered the following:

ORDER

HON'BLE MR G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

The applicant in this OA has approached the Tribunal for the following reliefs:

- a) to issue an order declaring that the applicant is entitled to get retiral benefits including pension, gratuity etc. reckoning casual labour service rendered from 20.10.71 to 24.12.80.
- b) an order declaring that the applicant is entitled to get retiral benefits including pension, gratuity etc. reckoning 50% of casual labour service rendered after 6 months continuous service from 20.10.71.

2. Applicant's case is that he was initially engaged under the Inspector of Works (Construction), Southern Railway, Perundurai as Khalasi on 20.10.71 and thereafter was continuously engaged upto 24.12.80 when he was regularised as Gangman. In support this, he enclosed his casual labour card at Annexure A-1 of the OA.



3. Learned counsel for the applicant relying on the decision of the Madras Bench of this Tribunal in OA 485/89 followed by the decisions of this Bench of the Tribunal in OA 659/90, 729/91, 1096/91, 1423/91, 1411/91, 1830/91, 833/92 etc. submits that the applicant is entitled for the reliefs sought for and hence for allowing the OA.

4. Learned counsel for respondents submits that the Hon'ble Supreme Court in Union of India and others vs. K.G. Radhakrishna Panicker, reported in AIR 1998 SC 2073 has set aside the judgement of the Madras Bench of the Tribunal in OA 485/89 and other OAs decided on that ratio. He submits that the applicant was a project casual labour and in view of the Apex Court's decision, he is not eligible for the reliefs sought and prays for dismissal of the OA.

5. I have given a careful consideration to the rival pleadings and the submissions made by the learned counsel. There is no dispute in the fact that the applicant was a project casual labour prior to 24.12.80. Hon'ble Supreme Court has set aside the decision of the Madras Bench of this Tribunal in OA 485/89 as cited by the learned counsel for the respondents. Hon'ble Supreme Court has held:

"As regards Project Casual Labour this benefit of being treated as temporary became available only with effect from 1-1-81 under the scheme which was accepted by this Court in Inder Pal Yadav. Before the acceptance of that scheme the benefit of temporary status was not available to Project Casual Labour. It was thus a new benefit which was conferred on Project Casual Labour under the scheme as approved by this Court in Inder Pal Yadav (1985 (3) SCR 837) and on the basis of this new benefit Project Casual Labour became entitled to count half of the service rendered as Project Casual Labour on the basis of the order dated October 14, 1980 after being treated as temporary on the basis of the scheme as accepted in Inder Pal Yadav. We are, therefore, unable to uphold the judgement of the Tribunal dated February 8, 1991 when it holds that service rendered as Project Casual Labour by employees who were absorbed on regular permanent/temporary posts prior to 1-1-81 should be counted for the purpose of retiral benefits and the said judgement as well as the judgement



in which the said judgement has been followed have to be set aside. The judgements in which the Tribunal has taken a contrary view have to be affirmed."

In the light of the law laid down by the Hon'ble Supreme Court as above, I find this OA as devoid of merits. Accordingly it is dismissed with no order as to costs.

Dated 4th August 1999.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER

aa.

Annexure referred to in this order:

A-1: True copy of casual labour card issued to the applicant for the period 20.10.71 to 24.12.80.