

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No. 278/95

Thursday, this the 4th day of March, 1999.

CORAM

HON'BLE MR R.K. AHOOJA, ADMINISTRATIVE MEMBER

HON'BLE MR A.M. SIVADAS, JUDICIAL MEMBER

U.V. Krishnan Unni, Retired Khalasi,
Under Inspector of Works,
Construction, Palghat.
Residing at: Girisadhan,
Mangara Post,
Palghat District.

...Applicant

By Advocate Mr T.C. Govindaswamy.

Vs.

1. Union of India through
the Secretary,
Ministry of Railways,
Rail Bhavan, New Delhi.
2. The General Manager,
Southern Railway, Madras-3.
3. The Chairman,
Railway Board, New Delhi.
4. The Divisional Personnel Officer,
Southern Railway, Palghat.
5. The Chief Personnel Officer,
Southern Railway, Madras-3.

...Respondents

By Advocate Mr K.V. Sachidanandan.

The application having been heard on 22.2.99, the
Tribunal delivered the following on 4.3.1999.

O R D E R

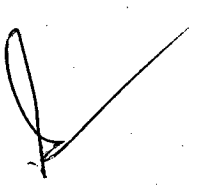
HON'BLE MR A.M. SIVADAS, JUDICIAL MEMBER

The applicant seeks to quash A-1, A-5 and A-6, to declare
that he is entitled to count whole of his service from 1.1.84 as
qualifying service for pension and to direct the respondents to
grant his pension and other pensionary benefits from the date of

his superannuation treating 50% of his service from 17.2.82 to 1.1.84 and the whole service from 1.1.84 to 30.9.93 as qualifying for pension with consequential benefits.

2. The applicant was initially engaged as a casual labaurer under the Depot Store Keeper on 1.3.71. He was retrenched from service on 15.1.72 and reengaged on 17.2.82. After his reengagment he had continuous service until he was treated as temporary with effect from 1.1.84. Thereafater, he was empanelled to the regular service as a regular Khalasi in the year 1989 and was absorbed as a Khalasi with effect from 1991. He retired from service on 30.9.93. He was not granted any pensionary benefits. A-5 and A-6 are beyond the scope of the scheme, directions and the law laid down in Inderpal Yadav's case. As per A-1, it was informed that the applicant is not entitled to pension since he has not rendered the minimum qualifying period of 10 years service for grant of pension.

3. Respondents resist the O.A. According to the respondents, the applicant became eligible to be granted temporary status with effect from 1.1.84. Accordingly, he was granted temporary status with effect from 1.1.84. Later he was screened for absorption as a regular railway servant and joined in the regular post of Non-Artisan Khalasi on 23.1.91. Subsequently, he retired on 30.9.93. As per Railway Board's letter dated 14.10.80, 50% of casual labour service after attaining temporary status from 1.1.81 will count for pensionary benefits, if it is followed by regular absorption. The applicant has got only 6 years, 2 months and 18 days qualifying service to his credit and hence he is not entitled to pension. Other benefits have already been arranged to be paid to him. Inderpal Yadav's case has nothing to do with grant of pensionary benefits. The applicant has not challenged




A-5 and A-6 in O.A.2227/93. There are no rules or orders for granting casual service in full for the purpose of pensionary benefits.

4. A-5 is the copy of Railway Board's letter dated 28.11.86. A-6 is the order dated 19.5.87. It clarifies that half of casual labour service rendered after attaining temporary status by project casual labour after 1.1.81 (depending upon the date from which such person gets temporary status) will count as qualifying service towards pensionary benefits on eventual absorption in the regular employment.

5. According to applicant, A-5 and A-6 are beyond the scope of the scheme, directions and the law laid down by the Apex Court in Inderpal Yadav's case. In Inderpal Yadav's case there is no declaration of law that project casual labourers after attainment of temporary status, if followed by regular absorption, are entitled to count full service as temporary status attained casual labourer for the purpose of pensionary benefits. That being so, it cannot be said that A-5 and A-6 are beyond the scope of the scheme, directions, and the law laid down by the Apex Court in Inderpal Yadav's case.

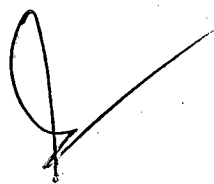
6. The applicant has not challenged A-5 and A-6 in O.A.2227/93 filed by him earlier claiming that he is entitled to count whole of his temporary service as qualifying for pension.

7. According to applicant, 50% of his service from 17.2.82 to 1.1.84 and the whole service from 1.1.84 to 30.9.93 should be counted for the purpose of pension. Reliance is placed by him in the order of this Bench of the Tribunal in O.A. 569/90 and connected O.As. This does not hold good after the ruling in Union of India and others Vs. K.G. Radhakrishna Panickar and others (AIR 1998 SC 2073).



8. Learned counsel appearing for the applicant relying on Ram Kumar and others Vs. Union of India and others, 1996(1) S.L.J. 116 and submitted that the applicant is entitled to count the qualifying period as claimed by him. The Apex Court therein directed the Railway Board to consider the claim of temporary employees for pension at the time of superannuation or otherwise in view of the fact that the Board has taken its own decision differently. There is a difference between temporary employees and temporary status attained casual labourers. Temporary status attained casual labourers will not become temporary employees for all purposes unless they get screened and absorbed in regular service. By the grant of temporary status, a casual labourer gets some additional benefits like scale of pay, leave, Pass etc. and it does not mean that he is entitled for all the benefits applicable to temporary employees. The applicant was not a temporary employee with effect from 1.1.84, but was only a temporary status attained casual labourer. Casual labourer even after attainment of temporary status will remain as a casual labourer till absorbed as a regular employee.


9. In Radhakrishna Panickar's case it has been held that the service rendered as Project Casual Labourer prior to 1.1.81 could not be treated as qualifying service for the purpose of retiral benefits because under this scheme they could not be treated to have attained temporary status prior to 1.1.81. That being the position, the applicant is not entitled to count 50% of the service from 17.2.82 to 1.1.84 as he has attained temporary status only on 1.1.84 and the whole service from 1.1.84 to 30.9.93 for the purpose of pension. Only 50% of his service after the attainment temporary status and the service rendered by him after regular absorption alone could be counted for pension. In that view, the stand taken by the respondents in A-1 is correct and does not



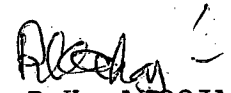
warrant any interference.

10. Accordingly, the Original Application is dismissed. No costs.

Dated the 4th day of March, 1999.



A.M. SIVADAS
JUDICIAL MEMBER



R.K. AHOOJA
ADMINISTRATIVE MEMBER

List of Annexures

1. Annexure A-1: A true copy of the order P(S)443/1/2227/93 EMS dated 4/11/94 issued on behalf of the 2nd respondent.
2. Annexure A-5: A true copy of the order bearing No.E(NG)II/85/CL/6 dated 28/11/86 issued by Railway Board.
3. Annexure A-6: A true copy of the order bearing No.E(NG)II/85/CL/6 dated 19/5/87 issued by Railway Board