

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A No. 279/06

Friday, this the 7th day of December, 2007.

CORAM

HON'BLE MRS SATHI NAIR, VICE CHAIRMAN

HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER

K.Mohan Pillai,
S/o Kuttan Pillai,
Senior Track Man (Gang No.3),
O/o the Section Engineer/Permanent Way,
Southern Railway,
Punalur.

....Applicant

(By Advocate Mr TC Govindaswamy)

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

(By Advocate Mr.Thomas Mathew Nellimoottil)

This application having been finally heard on 23.11.2007, the Tribunal on
7.12.2007 delivered the following:

ORDER

HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER

The dispute in this O.A is about the entry regarding the date of temporary status recorded in the Service Register of the applicant. According to the applicant, vide Annexure A-1 Office Order No.137/76/WP dated 6.8.1976 he was initially engaged as a Casual Labour with effect from 27.5.1971 and he was

initially engaged as a Casual Labour with effect from 27.5.1971 and he was already granted temporary status with effect from 23.9.1975 on completion of 4 months continuous service in the same job of work on daily rates with effect from 23.5.1975. However, on perusal of the Service Book, some time in January 2005, he noticed that the date of temporary status was erroneously recorded in the Service Book as 15.9.1978 instead of 23.9.1975. He has, therefore submitted Annexure A-3 representation. Since no reply was received and no action was taken in his matter, he again represented to the DRM/MDU on 27.7.2005. Thereafter he has filed this O.A. seeking a declaration that the respondents are bound to record the date of his temporary status as 23.9.1975 in all his service records in terms of Annexure A-1 order.

2. Respondents in their reply, on the other hand, have submitted that the applicant was not in continuous engagement without break till 15.5.1978 and on completion of 4 months thereafter, he was granted temporary status with effect from 15.9.1978 by order of the 3rd respondent dated 23.4.1979. As regards the Annexure A-1 was concerned, the respondents have submitted that the applicant cannot seek any relief on the basis of the said order as he was discharged from engagement as Casual Labourer on 20.1.1977 and there was break in service till he was reengaged as a fresh Casual Labour on 16.5.1977. They have justified their action in terms of para 254 of Chapter XXV of Indian Railway Establishment Manual which reads as under:

"Unauthorised absence of stoppage of work or the intervening period when the workman on his own changes from one work to another will be treated as a break in continuity in employment."

3. We have heard Mr TC Govindaswamy, learned counsel for the applicant and Mr Thomas Mathew Nellimoottil, learned counsel for respondents and

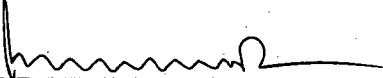
✓

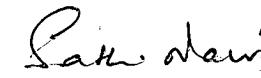
perused the service record of the applicant. The respondents have not disputed the existence of Annexure A1 office order dated 6.8.1976 by which the applicant along with other 21 similarly placed casual labourers were granted temporary status from different dates depending upon their date of continuous engagement. In the said office order, it was clearly mentioned that the applicant was in continuous engagement from 23.5.1975 and accordingly he was granted temporary status with effect from 23.9.1975. Temporary status once granted cannot be taken away just because there was disengagement in between for want of work. The contention of the respondents that after conferment of the temporary status to the applicant with effect from 23.9.1975 vide order dated 6.8.1976, he was disengaged from 20.1.1977 would not mean that next time when he is engaged, it would be a fresh engagement. As regards the contention of the respondents that there were no entry regarding the date of temporary status granted to him with effect from 23.9.1975, we can only say that it was the lapse on the part of the respondents that they have not kept the Service Register after the applicant was disengaged after granted temporary status vide aforesaid Annexure A-1 order. Had they continued to maintain the service book, they would not have issued Annexure R-4 order granting him the temporary status again with effect from 15.9.1978 along with 31 other casual labourers. The grant of temporary status to a casual labourer is a one time incident in his service and it cannot be altered or withdrawn unless there was some error in computing the number of days required for grant of temporary status or on any other adverse grounds attributable to the applicant as prescribed under any rules. There was disengagement after granting of temporary status and there was a gap between the date of disengagement and the next date of engagement is no reason for ignoring the temporary status already granted to the applicant. In this case, it is seen that even the respondents have not referred to the Annexure A-1 order while issuing the Annexure R-4 order.



4. In the above facts and circumstances of the case, this OA is bound to succeed. The O.A is accordingly allowed. Respondents shall make necessary entries in the service record of the applicant as to the date of grant of temporary status as 23.9.1975 instead of 15.9.1978 under intimation to the applicant in writing within a period of two months from the date of receipt of copy of this order. No costs.

Dated, 7th December, 2007.


GEORGE PARACKEN
JUDICIAL MEMBER


SATHI NAIR
VICE CHAIRMAN

trs