

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.307/95

Tuesday, this the 16th day of July, 1996.

C O R A M

HON'BLE MR JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN
HON'BLE MR PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

....

T Chandran, Commercial Courier,
Senior Divisional Commercial Manager's Office,
Southern Railway, Palghat—9.

....Applicant

By Advocate Shri K Ramakumar.

vs

1. Union of India represented by
the General Manager,
Southern Railway, Madras.
2. Chief Personnel Officer,
Southern Railway, Madras.
3. Divisional Personnel Officer,
Southern Railway, Palghat.

....Respondents

By Advocate Shri George Joseph.

The application having been heard on 12th July, 1996,
the Tribunal delivered the following on 16th July, 96:

O R D E R

PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

Applicant worked as Fitter under the District Signal Inspector (Works), Southern Railway, Podanur, from 3.12.63 to 25.7.70 as indicated by the Service Card of applicant (A-1). He was regularly absorbed on 27.7.70. Since applicant had a grievance regarding counting of service for certain benefits, he approached the Tribunal in OA 257/93. The Tribunal, following the decision in OA 849/90 dated 27.1.92, directed the Chief Personnel Officer to consider the grievance of the applicant and take a decision. It was held by the Tribunal in OA 849/90 that persons with continuous service under

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the District Signal Inspector, which is a non-project permanent establishment, are deemed to have attained temporary status on completion of six months from the date of their initial continuous engagement as casual labour and that they will be entitled to be treated as temporary railway servants under para 2511 of the Indian Railway Establishment Manual with consequential benefits. In response to the direction in OA 257/93, the Chief Personnel Officer passed the impugned order A3 dated 14.7.94 rejecting the claim of applicant. Applicant challenges this order. His contention is that in terms of the various decisions of the Tribunal and the Supreme Court, he was entitled to a declaration of temporary status which would enable him to count the service after such declaration for future benefits, such as pension. He has prayed that all benefits accruing on account of continuous service with effect from 3.12.63 be granted to him. Learned counsel for applicant relied on Ram Kumar and Others vs Union of India and Others, AIR 1988 SC 390 and Divisional Railway Manager and Another vs Kalga Krishna and Another, 1991 (4) SLR 226 (CAT: Hyd) to support his claim.

2. The impugned order has rejected the claim of applicant on the main ground that records regarding details of continuous employment were not available and that there was no authority or basis for claiming that applicant had been in continuous employment for the period prior to the appointment in the regular post. The impugned order does not refer to the casual labour service card issued to applicant by the District Signal Inspector (Works), Podanur, and attested by him on 25.7.70 (A1).

3. In their reply statement, respondents have contended that applicant is not similarly situated like the applicant in OA 849/90. The casual labour service card (A-1) produced by applicant could

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not be accepted since it was showing only a single entry '3.12.63 to 25.7.70--Fitter' allegedly signed by the District Signal Inspector (Works), Podanur and details of casual labour service with period-wise working particulars showing the continuity/break in service etc were not available in the service card. Continuity must be verified from relevant records such as muster rolls, paid vouchers etc which were to be maintained only upto a maximum period of ten years and so were not available for verification at this distant time. The service of applicant was seen from A-1 to be under the construction organisation of Signal Telecommunication Department which was under "project" and there were no rules or orders to grant temporary status to project casual labour till 1986. Since applicant was regularised in 1970, the principle laid down by the Supreme Court in Inder Pal Yadav vs Union of India, (1985) 2 SCC 648, were not applicable to applicant.

4. Though respondents have stated in their reply statement that applicant was not similarly situated like the applicant in OA 849/90, no reasons have been given for coming to such a conclusion. However, from the impugned order, we see that applicant has been distinguished from the applicants in OA 849/90 on the ground that those applicants had been agitating for a long time seeking their claims before various authorities. If applicant is otherwise entitled to the relief asked for, this cannot be an adequate reason to deny him the relief.

5. Respondents have no case that the casual labour service card A-1 produced by applicant is not a genuine one, though in the reply statement they have used the phrase "allegedly signed by...". No reason has been stated as to why the casual labour service card was not accepted as genuine. Besides, as noted earlier by us, the

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impugned order makes no reference to the casual labour service card or that the casual labour service card is not accepted as genuine. On the other hand, the impugned order states:

"As the applicants had not furnished any other documents or record or casual labour service card..."

(Emphasis added)

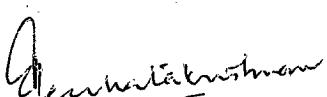
The mere fact that details of continuous/break in service are not shown in A-1 is no ground for doubting its genuineness. Respondents, if they so chose, could have easily verified the genuineness of the record by having it checked with the officer who signed the record or at least having his signature verified. The relief sought by applicant which is not insignificant considering his position, cannot be brushed aside by such a casual attitude on the part of respondents. In the absence of anything contrary to the claim and in the face of the averment made by applicant, we have to accept that A-1 casual labour service card is genuine and that the applicant had continuous service from 3.12.63 to 25.7.70 since no breaks are shown in A-1. It follows that in terms of the decision in KG Radhakrishna Panicker and Others, vs Union of India and Others, ATR 1991 (1) CAT 578, which has been followed by the Tribunal in several decisions including OA 849/90, applicant is entitled to a declaration that he has attained temporary status on completion of six months of continuous service, that is to say on 3.6.64. It also follows that applicant will be entitled to count 50% of his casual service from 3.6.64 to the date of his absorption, (which is seen from A-3 to be 23.7.90) as qualifying service for pensionary benefits. However, in view of the long delay in agitating for this relief, we do not consider it proper to grant applicant at this

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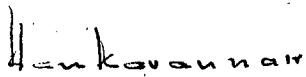
distant time any other benefit that might have accrued to him by virtue of his attaining temporary status on 3.6.64.

6. Application is accordingly allowed with the direction to respondents to treat 50% of the casual service of applicant from 3.6.64 to 22.7.90 as qualifying service for pension. No costs.

Dated the 16th July, 1996.



PV VENKATAKRISHNAN
ADMINISTRATIVE MEMBER



CHETTUR SANKARAN NAIR (J)
VICE CHAIRMAN

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