

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Dated the thirtieth day of September,
One thousand, nine hundred and eighty eight.

PRESENT

Hon'ble Shri SP Mukerji, Vice Chairman
and
Hon'ble Shri Ramakrishna Rao, Judicial Member

ORIGINAL APPLICATION No.352/86

P Narayanan : Applicant

-Vs-

- | | | |
|---|---|-------------|
| 1 Union of India rep. by
the General Manager
Southern Railway, Madras-3. | } | Respondents |
| 2 Divisional Railway Manager
(Personnel), Southern Railway
Madras Division, Madras-3. | } | Respondents |
| 3 Executive Engineer
Construction, Southern Rly.
Ernakulam Junction. | } | Respondents |

Mr K Padmanabhan : Counsel of Applicant

Mrs. Smuathi Dandapani : Counsel of Respondents

O R D E R

Ch. Ramakrishna Rao, Judicial Member

This is an application filed under Section 19 of
the Administrative Tribunals Act of 1985. The facts
leading to the application are briefly as follows:

- 2 The applicant entered service as Lascar on
1.8.52 in the final location survey for Quilon-Ernakulam
of the Southern Railway. He was absorbed in the permanent

post of Gangman in open line with effect from 1.1.59.

After working in several posts, he retired from service on 28.2.85 as Lorry Driver in the establishment of Respondent No.3. While computing his pension the period from 1.8.52 to 1.1.59 was excluded from the qualifying service of the applicant by the respondents. Aggrieved, the applicant has filed this application praying that the respondents be directed to take into account the period from 1.8.52 to 1.1.59 for calculating the terminal benefits to which the applicant was entitled and pay him all monetary benefits pertaining to retirement.

3 Shri K Padmanabhan, the learned counsel for the applicant contends that the initial appointment of his client was on regular basis as Lascar and he had served from 1.8.52 to 1.1.59 without any break in service. This period should, therefore, be taken into account for calculating the pension due to the applicant.

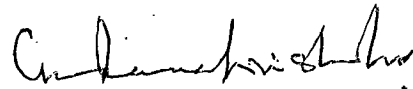
4 Smt. Sumathi Dandapani, the learned counsel for the respondents submits that the applicant was appointed only as a temporary Lascar and was absorbed as Gangman in open line on a permanent basis only on 1.1.59. According to her, the applicant was appointed as a casual labourer in the projects and therefore, he is governed by the rules applicable to such casual labourers. The applicant has been paid settlement benefits

deeming him to be in service with effect from 1.9.52 but the pensionary benefits could be reckoned only from the time of his absorption in regular employment on 1.1.59 as provided in the Manual of Railway Pension Rules.

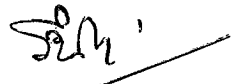
5 We have considered carefully the contentions advanced by the counsel for the parties. True, a railway servant does not qualify for pension unless he holds a substantive office on a permanent establishment on the date of his retirement, but Rule-4 of the Pension Rules makes it clear that temporary or officiating service rendered by the government servant without interruption by confirmation in the same or another post shall count in full as qualifying service. From the service register of the applicant produced during the hearing it is noticed that the applicant joined service as Lascar on 1.8.52 and was rendering service uninterruptedly upto 1.1.59 when he was absorbed in the post of Gangman. There is no entry to justify the inference that the service of the applicant was not continuous during the aforesaid period. We are, therefore, satisfied that the pensionary benefits due to the applicant should be reckoned by the respondents from 1.8.52 when he joined service as Lascar and not from 1.1.59 when he was absorbed in the permanent post of Gangman.

6 In view of the above we direct the respondents to reckon the pensionary benefits in the manner aforesaid and pay the arrears due to the applicant within two months from the date of receipt of this order.

7 In the result, the application is allowed.
There will be no order as to costs.



(Ch. Ramakrishna Rao)
Judicial Member
30.9.88



(S P Mukerji)
Vice Chairman
30.9.88