

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.358/08

Tuesday this the 3rd day of February 2009

C O R A M :

HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER

T.Chellappan,
S/o.Thiruvanchan,
Retired Gangmate, S.Railway, Kpy.
Residing at Palamuttathu Vadakkethil,
Kaduvinal P.O., Vallikunnam, Dist. Alleppey.

...Applicant

(By Advocate Mr.T.N.Sukumaran)

Versus

1. Union of India represented by the General Manager,
Southern Railway, Park Town, Chennai – 3.

2. Divisional Personnel Officer,
Southern Railway, Divisional Office,
Personnel Branch, Trivandrum – 14.

...Respondents

(By Advocate Mr.K.M.Anthru)

This application having been heard on 3rd February 2009 the Tribunal on the same day delivered the following :-

ORDER

HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER

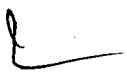
The applicant was engaged as a Casual Labour under Permanent Way Inspector, Construction Quilon on 27.8.1972 and he continued in that capacity till 1979. Thereafter, vide memorandum No.U/P.564/III/QLN/31-12-77 dated 22.1.1979, he was empanelled as a Gangman in the scale of pay of Rs.200-250 against vacancies as on 31.12.1976 and appointed him with effect from 13.4.1979. When he retired from service on 31.8.2004 for the purpose of settlement of his terminal benefits, the respondents have reckoned his qualifying service as 25.5 years only from 13.4.1979 to 31.8.2004.

2. The applicant has filed this present Original Application aggrieved by the respondents inaction in not implementing the Annexure A-1 Railway Board Circular No.130/2000 dated 30.6.2000 regarding payment of gratuity under the Payment of Gratuity Act, 1972. According to the said Circular the Railway Board has decided that such casual labours who continued to be in service and were/are absorbed against regular vacancies, shall be allowed to exercise an option as under :-


(i) payment of Gratuity under the provisions of the Payment of Gratuity Act, 1972 for the period of service upto the date preceding the date of absorption and for payment of gratuity and pension for the period of regular service under the provisions of the Railway Services (Pension) Rules, 1993; OR

(ii) to payment of gratuity and pension counting half of the service rendered in temporary status and full service rendered on regular basis under the provisions of the Railway Services (Pension) Rules, 1993, besides gratuity under PG Act for the period preceding the attaining of temporary status.

3. In case option (i) is exercised, the Railway servants who have since retired/ceased to be in employment will become eligible for payment of gratuity for the period of casual labour service up to the date preceding the date of absorption under the provisions of the Payment of Gratuity Act, 1972 worked out on the basis of the wages admissible on the last date of temporary status service and for the period of delay in payment of gratuity, ie., for the period from the date of absorption up to the end of the month preceding the date on which the payment is made, the amount of gratuity so worked out will carry an interest at the simple rate not exceeding the rate notified by the Government from time to time for repayment of long term deposits. The Railway servants who have been absorbed against regular vacancies and are still in service shall be paid gratuity forthwith calculated under the provisions of the Payment of Gratuity Act, 1972 for the



period of casual labour service up to the date preceding the date of absorption together with interest at the simple rate as specified above for the period of delay in payment i.e., from the date it became due for payment up to the end of the month preceding the date on which the payment is made. At the time of retirement/final cessation, the Railway servant shall be settled under the provisions of the Railway Services (Pension) Rules for the period of service from the date of absorption up to the date of retirement/final cessation. In case option (ii) is exercised, half of the period of temporary status service and full period of regular service will be taken into account for grant of pensionary benefits under the Railway Service (Pension) Rules, 1993. If the Railway Servant is eligible to draw gratuity under the provisions of the Payment of Gratuity Act, 1972 for the period of service prior to grant of temporary status, the same shall be worked out on the basis of emoluments admissible on the date preceding the date on which he was granted temporary status. The amount of gratuity thus worked out shall be paid along with the interest at the rate specified above for the period of delay i.e., from the date it became due for payment following grant of temporary status up to the end of the month preceding the date on which the payment is made. In the said Circular the Railway Board has also directed the Railway concerned to take suo moto steps to examine all the past cases on the basis of records available and settle the claims accordingly. For this purpose, all the claimants are to be suitably addressed on the basis of particulars available with the Railways, so that the claimants or their legal heirs can claim the payment without delay. The Railway Administration shall also extend all assistance to the retired as well as the serving Railway servants to exercise the option judiciously in order that the option exercised is advantageous to them.



4. Heard Shri.T.N.Sukumaran for the applicant and Shri.K.M.Anthru for the respondents. Admittedly, the aforesaid directions of the Railway Board has not been followed by the respondents' Railway in the case of the applicant. I, therefore, direct that the respondents shall comply with the directions of the Railway Board contained in the aforesaid Circular No. No.130/2000 dated 30.6.2000 (Annexure A-1) in the case of the applicant without any further delay. Since the applicant has already retired from service and he was a low paid employee, an official from the Welfare Department of the Railways shall be deputed to assist the Government servant to exercise his option judiciously as ordered by the Railway Board in their Circular. The benefits arising out of the said circular shall be made available to the applicant within a period of three months from the date of receipt of a copy of this order. There shall be no order as to costs.

(Dated this the 3rd day of February 2009)



GEORGE PARACKEN
JUDICIAL MEMBER

asp