

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH, LUCKNOW

Original Application No. 315/2010

This, the 4th day of November, 2011

Hon'ble Mr. Justice Alok Kumar Singh, Member (J)

Ringi Lal aged about 60 years son of late Sri Bhusni (Balmiki) resident of Sarfarzganj, Post Office-Colonelganj, District- Gonda

Applicant.

By Advocate: Sri Dharmendra Awasthi

Versus

1. Union of India through the Divisional Railway Manager, NER, Lucknow
2. Divisional Personnel Officer, NER, Lucknow.
3. Assistant Divisional Accounts Officer, NER, Lucknow

Respondents.

By Advocate: Sri R.K.Ranjan

ORDER (Dictated in Open Court)

By Hon'ble Mr. Justice Alok Kumar Singh , Member (J)

This O.A. has been filed for the following reliefs:

- i) Direct the respondents to give/ allow the pension to the applicant as the applicant is wholly entitled for it.
- ii) Allow the interest @ 18 % over the amount for the period, for which it has not been given from the date of retirement.
- iii) Pass any other suitable order or direction which this Hon'ble Tribunal may deem fit, just and proper under the circumstances of the case in favour of the applicant.
- iv) Allow the present original application of the applicant with costs.

2. The case of the applicant is that he worked from 1993 to 1999 under the category of temporary status and thereafter, he worked as regular employee till his retirement on 31st January, 2010. Consequently, he worked as regular employee for complete 10 years and as such, he is entitled to get pension. Besides, half of the period of his temporary status comes out to 3 years plus, which has also to be taken into account for the purpose of counting pension. But for the reasons best known to the respondents, he is being deprived from getting pension, though,

A.K.

he has been granted the benefit of leave encashment, provident fund and insurance etc.

3. The O.A. has been contested by filing a counter reply admitting that he worked as temporary employee w.e.f. 29.6.1993. On 6.12.99, he was appointed on regular basis. According to the averment made in para 10, period of temporary status comes out to 6 years 5 months and 6 days and after counting of 50% of the service, it works out to 3 years 2 months and 18 days. Hence his total regular service comes out to 10 years 1 month and 25 days and after adding 50% of the aforesaid temporary status, it comes out to 13 years 4 months and 13 days. But it is also mentioned that period of 6 years 9 months and 9 days is not countable period for pension and after deducting it, it comes out to 6 years 1 month and 4 days, which is less than 10 years, hence he is not entitled for pension.

4. In the Rejoinder Reply, this para 10 has been specifically denied saying that the respondents are trying to mislead the court.

5. I have heard the learned counsel for parties and perused the material on record.

6. It has been specifically pleaded by the applicant that he worked in the temporary status from 1993 to December, 1999 and thereafter, as regular employee till his retirement on 31st January, 2010. The official respondents have admitted this averment by saying that the applicant was appointed on the post of Safaiwala with temporary status on 29.6.1993 and he worked as such till he was appointed on regular basis on 6.12.1999. In para 10 of the CA., It has also been admitted that the total service of the applicant as regular employee comes to 10 years one month and 25 days and after adding 50% of the service of the workman/ applicant, during his working on temporary basis, it comes to 13 years 4 months

and 13 days. There is no quarrel on the point that 10 years minimum qualifying regular service is required for the purpose of pension, which according to the aforesaid admitted pleadings is available in the case of the applicant. Though, the respondents have also said in the same paragraph that period of 6 years 9 months and 9 days is not countable period for pension and therefore, after deducting it, the total qualifying service comes to 6 years 1 month and 4 days, which is less than 10 years. and as such the applicant is not entitled for pension but it is not ascertainable that alleged period of 6 years 9 months and 9 days pertains to which period of service which is not countable period for pension. According to the admitted pleadings of the respondents themselves, the applicant was appointed as Safaiwala with temporary status w.e.f. 29.6.1993 and he worked as such till he made regular on 6.12.1999. Admittedly, he retired on 31.1.2010. Thus, there are only two periods in the entire tenure of the applicant one is that of temporary status which is for 6 years 9 months and 9 days according to the respondents themselves and the other period is of regular service consisting of 10 years one month and 25 days. There is no period in between. Therefore, it appears that under some confusion, the alleged third period of 6 years 9 months and 9 days has been mentioned in the CA. No explanation regarding this could be given orally also.

7. Otherwise also, even if, the period of regular service of 10 years one month and 25 days is taken into account, then also, the applicant is entitled to get pension because of completion of 10 years of regular qualifying service.

8. In view of the above, the applicant is entitled to get the main relief pertaining to pension.

9. The second relief pertains to interest @ 18% over the amount for the period from the date of his retirement till the actual

payment is made. Considering the present market rate and having regard to the interest rate of more than 8% which is provided in respect of GPF, in my view rate of interest at 8% interest over the amount in question from the date of retirement till the actual date of payment would meet the ends of justice and accordingly, it is so ordered.

10. In view of the above, this O.A. is allowed. The official respondents are directed to work out the pension expeditiously preferably within 3 months from today. The applicant shall also be entitled to interest @ 8% from the date of retirement till the date of actual payment on the pensionary amount. No order as to costs.

Alok Kumar Singh
(Justice Alok Kumar Singh) 4.11.11
Member (J)

HLS/-