

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY 400614

O.A. NO.281/86

Shri Pira Ramchandra
Near Quarter No. 119
Cottage Haddiwali Chawl
Near K.R. Chandan Cycle Mart
At & Post - Bhusawal

Applicant

v/s.

1. The Union of India through
The General Manager
Central Railway
Bombay V T 400001
2. The Divisional Railway Manager
Central Railway
Bhusawal

Respondents

Coram : Hon'ble Vice Chairman(J) B C Gadgil
Hon'ble Vice Chairman(A) B C Mathur

Appearance

Shri D V Gangal
Advocate
for the Applicant

Shri S R Atre (for Shri P M Pradhan)
Advocate
for the Respondents

ORAL JUDGMENT

[Per: B C Gadgil, Vice Chairman(J)]

DATED : 24.11.1987

The applicant claims pensionary benefits for his services as a Ladderman with the Central Railway. Applicant's contention is that from 1954 to 1970 he was in the employment of the Railways and that thereafter he resigned. Though in the application he has made certain averments that he has withdrawn that resignation and that thereafter he was again taken on duty, we are not inclined to accept this averment of the applicant in as much as there is nothing to show that he was allowed to withdraw his resignation. This is more so when the respondents contend that the applicant was appointed as a new entrant from 1.3.1971. Hence this matter will have to be dealt with on the basis that the applicant was appointed in the Railway service on 1.3.1971.

B C Gadgil

2. On 9.10.1979 a notice was issued to the applicant terminating his services after one month. Accordingly his services came to an end on 27.11.1979. It however appears that the applicant was again employed on 23.1.1980 and continued in service till 30.6.1985 i.e., till the date of attaining superannuation. On 23.1.1980 the Railway administration has passed an order vide Annexure R-II to the reply that the services of the applicant and some other persons were regularised as temporary employees in the grade of Rs. 196-232. It also states that the General Manager has accorded sanction for regularisation in relaxation to the maximum age limit. The applicant accordingly joined the service on 23.1.1980.

3. Thus the applicant has rendered service from 1.3.1971 till 30.6.85 with break for a period from 27.11.1979 to 23.1.1980. The applicant has claimed pensionary benefits for this service. However, he was informed that he has rendered service for about five years i.e., from 21.3.1980 to 30.6.1985 and that, therefore, he is not eligible for any such pensionary benefits. It is common ground that the pensionary benefits are available for a minimum period of ten years. It appears that the Railway administration has counted the service only for the last spell of 1980-85. Technically it should be correct. However, it will be necessary to bear in mind that by Annexure R-II the Railway administration has regularised the service of the applicant. Such regularisation would necessarily mean the regularisation of the past service and in that background we feel that it would be unjust to treat the period from 27.11.1980 to 23.1.1980 as a break in service. The most that can be done will be to direct that the said period should be treated as 'dies non' without effecting any break in service. Under these circumstances the applicant would be entitled to all pensionary

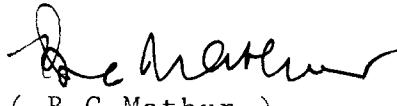
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benefits for his service from 1.3.1971 till 30.6.1985 after deducting the above 'dies non' period. Hence we pass the following order:

ORDER

The application partly succeeds. The respondents are directed to treat the applicant's service from 1.3.1971 to 30.6.1985 as continuous service subject to a 'dies non' period from 27.11.1979 to 31.1.1980. We make it specifically clear that this 'dies non' period should not be treated as break in service. On the basis of this service the respondents should process the matter about the pensionary benefits to which the applicant would be entitled and then to make the payment in accordance with the rules in that respect. These benefits should be ascertained on the basis of the last pay drawn by the applicant on 30.6.1985. This should be done within a period of four months from to-day.

Parties to bear their own costs.


(B C Mathur)
Vice Chairman(A)


(B C Gadgil)
Vice Chairman(J)