

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

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NEW BOMBAY BENCH

O.A. No. 310 of 1986
~~RAXXXX~~

DATE OF DECISION 29.8.1988

Smt. Krishnabai Ranu Barathe, Petitioner

Shri D.V.Gangal Advocate for the Petitioner(s)

Versus

Union of India & Others Respondent

Shri R.K.Shetty Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. B.C. Gadgil, Vice-Chairman

The Hon'ble Mr. P.Srinivasan, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement? - 4^o
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

B.M.

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

Original Application No.310/86

Smt. Krishnabai Ranu Barathe,
 C/o. Prahalad Shivram Sonavane,
 Bbessle's Chawli,
 Siddharth Nagar,
 Koltewadi,
 Kalyan.

.. Applicant

V/s.

1. Union of India
 through
 The General Manager,
 Central Railway,
 Bombay V.T.400 001.
2. The Divisional Railway Manager,
 Central Railway,
 Bombay V.T.400 00.

.. Respondents

Coram: Hon'ble Vice-Chairman, Shri B.C.Gadgil
 Hon'ble Member(A), Shri P.Srinivasan

Appearance:

1. Shri D.V.Gangal
 Advocate
 for the applicant.
2. Shri R.K.Shetty
 Counsel
 for the respondents.

ORAL JUDGMENT:-

Dated: 29.8.1988

(Per: Shri P.Srinivasan, Member(A))

This application has come up before us today for final hearing. Shri D.V.Gangal, advocate for the applicant and Shri R.K.Shetty, advocate for the respondents have been heard.

2. The applicant was working as a Safaiwali in the

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Central Railway. There is some dispute as to the period during which she was so working. The applicant contends that she has been working from 1955 onwards though her service was not continuous at the beginning. The respondents say that according to their records the earliest date from which she was working was 1969. Shri R.K.Shetty, however, clarified that for casual or substitute labour continuous records are not maintained by the respondents. The applicant seems to have represented to the authorities from time to time that considering her long service dating back to 1955, she should be regularised from 1967. We have perused the personal file of the applicant maintained in the office of the respondents. From those record, we find that the applicant was given increments of pay on 1.6.1974, 27.7.1974, 8.8.1975 and 17.8.1976. Thereafter she has been given regular annual increments on 17th August of each year till she reached the maximum of the scale. From this it is clear that she has rendered continuous unbroken service atleast from 17.8.1975 till 3.6.1986 when she left service on superannuation. Thus she had put in more than the requisite 10 years of service to earn pension and other retirement benefits.

3. The applicant complains that though she has been working with the respondents from as early as 1955, no doubt with short breaks upto 1975 and persons who joined with her were screened and regularised she had not been regularised, for no fault of hers and as a result, she was denied retirement benefits after retirement. In fact, according ^{to} _{to} the applicant she was

per.

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even subjected to a medical examination on 25.1.1967 for the purpose of screening and regularisation and was given a certificate of fitness by the District Medical Officer, Central Railway, Byculla. The respondents say that since she was not regularised in 1967 she is not entitled to any retirement benefit. If she had been put through the screening and had not been selected, the respondents say in their reply, she would have made a representation at the time. We do not attach much importance to this statement, because the applicant is an illiterate person who may not even have been aware at the time that she had not been regularised while others had been. The records of the respondents further show that she was a loyal worker and came to work during the strike in 1974 and as a reward she was given an additional increment. What more can be expected from an illiterate safaiwala. She, therefore, deserved to be regularised in 1967 with persons who had joined service with her and the respondents have nothing against her. Since she was also medically certified for regularisation in 1967, it seems to us that it was only through some lapse that she was not regularised then.

4. Therefore, considering the peculiar facts and circumstances of this case, we feel that the applicant is entitled to relief in this application, because of her long and obviously loyal service to the railways. The problem before us, however, is that the respondent railway do not have a complete record of the service particulars of the applicant from the beginning as she

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was a casual employee in the beginning. However, we find a ring of truth in the applicant's contention that she was working from 1955 and because of this she was to be considered for regularisation in 1967 and was subjected to a medical examination for that purpose. That being so, we feel that as a special case, the applicant should be treated as a regular and permanent railway employee with effect from 17.8.1975, the date from which her service was continuous and unbroken. Once she is treated as a permanent servant she is entitled to all retirement benefits on superannuation on 3.6.1986. We, therefore, pass the following orders:-

ORDER

- (i) The applicant is deemed to have been made permanent with effect from 17.8.1975.
- (ii) From the date of her superannuation she should be given all pensionary benefits calculated on the basis of service rendered by her from 17.8.1975 to the date of her superannuation.
- (iii) The arrears of pension and other benefits due to the applicant from 3.6.1986 should be worked out accordingly and paid to her within three months from the date of receipt of a copy of this order.
- (iv) Shri R.K.Shetty stated that she may have been paid the employer's contribution Provodent Fund though there is no indication to that effect in the record produced by him. If any such payment is found to have been made, it may be deducted from the benefits due to her in accordance with our directions in the previous paragraphs.

BEG

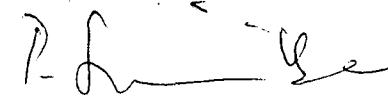
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(v) Monthly pension should be paid to her for future months in accordance to our direction above.

The application is disposed of on the above terms but in the circumstances of the case. Parties to bear their own costs.



(B.C.Gadgil)
Vice-Chairman



(P.Srinivasan)
Member(A)