

**CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA No.505 of 2005**

Date of order : 29th November, 2006

C O R A M

Hon'ble Mr. Justice P.K.Sinha, Vice-Chairman
Hon'ble Mr. S.N.P.N.Sinha, Member[Admn.]

Mani Kant Jha, son of late Sahdeo Prasad Jha, Ex. Clerk Grade - II
under Deputy Chief Engineer [Con] , E.C. Railway, Dhanbad,
resident of village - Gosain Daspur, P.O. - Champa Nagar, District -
Bhagalpur. Applicant

Vrs.

1. Union of India through the General Manager, E.C. Railway,
Hazipur.

2. The Chief Administrative Officer [Con.] , E.C. Railway,
Mahendrughat, Patna.

3. The Chief Personnel Officer, E.C. Railway, Hazipur.

4. The Deputy Chief Engineer [Con.], E.C. Railway, Dhanbad.
..... Respondents

Counsel for the applicant : Shri M.P.Dixit

Counsel for the respondents : Shri P.K.Tiwari, ASC

O R D E R

Justice P.K.Sinha, Vice-Chairman :-

The applicant superannuated, while working as Clerk Grade-II w.e.f.
the afternoon of 30.6.2005. He was initially appointed a Casual Labourer on



30.7.1973 and was granted temporary status w.e.f. 1.1.1981. Thereafter the applicant was absorbed in the regular post w.e.f. 1.4.1988. These facts are not in dispute. The dispute relates to counting of effective service for the purposes of pensionary benefits. The contention of the respondents is that as per rules and existing circulars, the entire regular service of the applicant, i.e., from 1.4.1988 to 30.6.2005 has been counted to which half of his service undergone as temporary status [from 1.1.1981 to 31.3.1988] has been added. This makes out the total service of the applicant to be 20 years 10 months hence the pensionary benefits have been counted on the basis of this length of service.

2. The ld. counsel for the applicant submits that different benches of the Central Administrative Tribunal, mainly based upon the decision of the Division Bench of the High Court of Andhra Pradesh in the case of **General Manager, South Central Railway vs. Shaik Abdul Khader; 2004[2] ATJ 23**, have granted the benefit as sought in the application, i.e., adding the entire period of service undergone as temporary status and half of the working period undergone as casual labourer, to the period of service after absorption in a regular post. The ld. counsel for the applicant in this regard has also referred to an order of this Tribunal in O.A. No.164 of 2006



[Baleshwar Sharma vs. Union of India & Ors.] disposed of by order dated 22.11.2006.

3. Therefore, the question that is to be decided is whether the period of service for the purposes of pensionary benefits should be counted as has been done by the respondents, or that should be counted in the manner as sought in this application. In this regard I can do not better than quoting from the portions of the order recorded by this Tribunal in O.A. No.164 of 2006 as below :-

“7. In the case of General Manager, S.C. Railway [supra] their Lordships of the Andhra High Court were considering a decision of the Tribunal in that regard. The claim of the respondents before the Hon'ble Court has been summarized in para 3 of the judgment which runs as follows :-

“The factual position is explained and in this fact^{and}position it has to be seen whether the respondent^s was entitled to get his services counted in full from 1.1.1983 when he became casual labourer or was it incumbent to take only 50% of this service into account for the purpose of pension. The respondent's case is that he was a casual labourer from 6.1.1979 and was given temporary status from 1.1.1983. 50% of service rendered by him from 6.1.1979 to 1.1.1983



had to be counted whereas the service from 1.1.1983 had to be counted in full.”

4. Thereafter, their Lordships went through various Rules including 13 and 21 of the Railway Service [Pension] Rules, 1993, provisions under Master Circular 54 of 1994 and para 2005 of the “Indian Railway Establishment Manual [Vol.II]” in which their Lordships had, while considering that paragraph, also reproduced sub para 2005[a] of the aforesaid Manual.

5. Having considered the facts of the case and rules on the subject their Lordships held that the respondent was entitled to get the service counted in full from 1.1.1983 [the date on which he got temporary status] and was also entitled to get half of the service before 1.1.1983 counted from the date he had joined in the Railway as casual labourer. In this decision, therefore, on considering of the relevant rules, a ratio was laid down in this regard.

6. No other judgment either of any High Court or of the Apex Court has been brought to my notice by the learned counsels for the either side which takes a decision contrary to what has been arrived at by the Hon'ble High Court of Andhra Pradesh.

7. Similar matter was considered in O.A. No.492 of 2005 which was disposed of by order dated 1.3.2006 in which similar benefit was granted to



the applicant.

8. The ld. counsel for the respondents has argued that as per circulars, only half of the period of temporary status can be counted for the purposes of pension, if that was followed by the absorption of the casual labourer under temporary status in a regular post.

9. However, it is clear in the circumstances of the case, the various decisions of the different Benches of this Tribunal on this point, as well of the division bench decision of the Hon'ble Andhra Pradesh High Court, in the case of General Manager, South Central Railway [supra] . . . will have to be followed in this case also.

10. In the result, this application is allowed. The Respondent No.2 and 3, namely the Chief Administrative Officer[Con] E.C. Railway, Mahendraghat, Patna and the Chief Personnel Officer, E.C. Railway, Hazipur, are hereby directed to get the qualifying period of service of the applicant, for the purposes of pensionary benefits, calculated afresh adding thereto the entire period of service undergone by the applicant under temporary status and half period of service undergone as casual labourer and then to have the pensionary benefits calculated thereupon, afresh. This should be done within three months of the receipt of a copy of this order whereafter the arrears of retiral benefits, including of the pension, should be

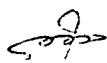


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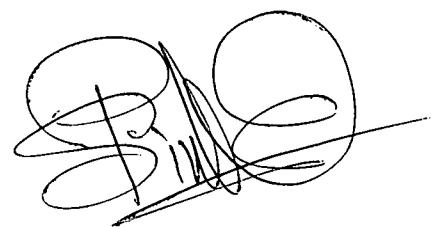
OA 505/05

paid within one month, failing which the amount of unpaid arrear would be payable with interest @ 9% per annum starting from the date of expiry of the period of four months after receipt of a copy of order, till the amount is paid.

11. To that extent, this application is allowed. No costs.



[S.N.P.N.Sinha]M[A]



[P.K.Sinha]VC

mps.