

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA.
O.A. No. 464/2005

Date of order : 17th July, 2008

C O R A M

HON'BLE SHRI AMIT KUSHARI, MEMBER[A]

Khojendra Narayan Das, Son of Late Tilak Narayan Das, Resident of Village/P.O. Balour, District- Darbhanga (Bihar), Retired Sr. T.S. Amin from the Office of the Deputy Chief Engineer (Construction), North Eastern Railway, Samastipur.

..... Applicant.

-By Advocate : Shri M.P. Dixit

-Versus-

1. Union of India through the General Manager, North Eastern Railway, Gorakhpur.
2. Chief Personnel Officer, North Eastern Railway, Gorakhpur.
3. Chief Administrative Officer (Construction), North Eastern Railway, Gorakhpur.
4. Deputy Chief Engineer (Construction), East Central Railway, Samastipur (Bihar).

..... Respondents.

By Advocate : Shri Mukundjee, Standing Counsel for the Railways.

O R D E R

Amit Kushari, Member(A) :-

The applicant was engaged as a casual labour

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in the year 1979 in the North Eastern Railway, Samastipur. Subsequently, he was granted the scale of Rs. 950-1500/- as ~~22~~ Amin on 1.1.1983. He was also granted temporary status on 1.1.1983. He was also promoted to the post of Senior Amin in the scale of Rs. 1200-1800/- on 9.8.1986. He thereafter worked continuously up to 30.09.1997 when he attained the age of 58 years and retired. During this long period of service from 1979 to 1997 (almost 18 years) he was transferred from one place of posting to another and worked continuously and was promoted twice and thereafter he retired in temporary status only. The authorities did not regularise his services. He was informed once by the Chief Administrative Officer of North Eastern Railway of Gorakhpur that his particulars should be given for regularisation of service. This was as late as 12.08.1997 just one and half months before his retirement. But the actual regularisation did not happen before he retired. After the retirement when the applicant asked for his pension and DCRG, the authorities issued the impugned order at Anneuxure A/1 in which it was mentioned that since his services had not been regularised, he could not be granted pension and DCRG.

2. Shri M.P. Dixit, learned counsel for the applicant pointed out that here is a case of an employee who has worked without break for 18 years in the department in proper pay scales - giving the prime of his life to the Railways and after serving at so many places for 18 years he is being informed now that he is not entitled to any pension and gratuity.

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3. Shri Mukundjee, learned Standing Counsel for the Railways admitted that this was really unfortunate and the formality of regularisation should have been gone through but the applicant himself should have been more alert in the matter. He should have reminded the authorities again and again for regularisation before his retirement, but he did not do so and remained passive.

4. Shri M.P. Dixit, learned counsel for the applicant pointed out that it was the duty of the authorities to complete the formalities and the applicant only should not be blamed. He also pointed out to the Railway pension Rules, 1993 . In Section 18(1) it is mentioned that - a temporary railway servant who retires on superannuation after having rendered more than 10 years of temporary service shall be eligible for grant of retirement gratuity and family pension at the same scale as is admissible to permanent railway servant under these rules. He also pointed out Rule 69 of Railway pension Rules which stipulates that effectively the minimum qualifying service for pension is 9 years and 9 months of service. Shri Dixit also reminds me of the famous Andhra Pradesh High Court judgment in which it was ordered that entire temporary status service of an employee would be counted for pension and half of casual service is also to be counted for pension.

5. In the written statement, the respondents have stated that the applicant had four years of casual labour service and 14 and half years of temporary status service. They have counted half of the temporary status service only which comes to 7 years and 3 months. Since this falls short of 9 years and 9

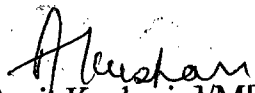
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months they have denied any pension to the applicant. The casual service has not been counted at all. If the Andhra Pradesh High Court judgment is to be kept in mind then the entire 14 and half years of service in temporary status has to be counted as qualifying service for pension and half of four years casual service, i.e. 2 years is to be counted for qualifying service for pension and his pension has to be calculated on 14 and half years plus 2 years, i.e. 16 and half years of service.

6. I have carefully weighed the arguments of both the sides. I find it extremely shocking that the respondents could not complete the formalities and procedures for regularising the employee who has worked for 18 years in the department. If an employee worked for 18 years it is obvious that there was sufficient work in the department and more and more of work was generated every year. Otherwise he would have been discontinued. In such a circumstance, there can be no reason why the employee could not be regularised - specially when he has been promoted twice during this period and when he has been transferred from one place to another like a regular employee. I, therefore, find no reason why he should not be granted pension taking his qualifying service as 16 and half years following the judgment of Hon'ble Andhra Pradesh High Court. As far as DCRG is concerned, Rule 18 of the Railway Service (Pension) Rules is very clear. All temporary status railway servants are entitled to retirement gratuity if he has rendered temporary status service of more than 10 years. Therefore, there is absolutely no ground for denying the retirement gratuity to the applicant. The OA



has sufficient merit and, therefore, this OA succeeds. The respondent no. 2,3 and 4 are hereby directed to immediately issue orders granting him pension and retirement gratuity and this exercise should be completed within three months of receipt of a copy of this judgment. No costs.


[Amit Kushari]/M[A]

srk.