

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

Original Application No:30/99

Date of Decision:5/3/99

R.S.Rupvate

Applicant.

Shri K.R.Yelwe

Advocate for  
Applicant.

Versus

Union of India & 30rs.

Respondent(s)

Shri V.S.Masurkar

Advocate for  
Respondent(s)

CORAM:

Hon'ble Shri.Justice K.M.Agarwal, Chairman.

Hon'ble Shri.

- (1) To be referred to the Reporter or not? *yes*
- (2) Whether it needs to be circulated to other Benches of the Tribunal?

*K.M.Agarwal*  
(K.M.Agarwal)  
CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.30/99.

Friday, this the 5th day of March, 1999.

Coram: Hon'ble Shri Justice K.M.Agarwal, Chairman.

R.S.Rupvate,  
Samata Chawl,  
Ramabai Ambedkar Nagar,  
Sai Hill, Tembipada Road,  
Mumbai - 400 078.  
(By Advocate Shri K.R.Yelwe)

... Applicant.

V/s.

1. Union of India through  
the Director General,  
Department of Telecommunications,  
Sanchar Bhavan, Ashoka Road,  
New Delhi 110 001.
2. The General Manager,  
Mahanagar Telephone Nigam Ltd.,  
Telephone House,  
Prabhadevi, Dadar (W),  
Mumbai - 400 028.
3. The Asstt. Director General (STP),  
Department of Telecom.,  
Pension Section, Sanchar Bhavan,  
20, Ashoka Road,  
New Delhi 110 001.
4. The Accounts Officer (MA-Cash),  
M.T.N.L. Mumbai,  
Parel Telephone Complex,  
Parel (East),  
Mumbai - 400 012.  
(By Advocate Shri V.S.Masurkar).

... Respondents.

: O R D E R :

(Per Shri Justice K.M.Agarwal, Chairman)

By this O.A., the applicant wants the respondents to reckon 50 per cent of his service as casual labour as qualifying service for pension.

2. Briefly stated, the applicant retired from the services of the respondents as Mazdoor on attaining the age of superannuation on 30.6.97. He claims that he was initially employed as a casual labour w.e.f. 1.4.1977. After having put in a continuous service of about 10 years, 7 months and 2

...2.

days, he was regularised as Mazdoor w.e.f. 4.11.1987 and was confirmed in his appointment as such w.e.f. 4.11.1989. He claims that pursuant to Government of India's decision at Sl.No.(2) below Rule 14 of Chapter III of the Central Civil Services (Pension) Rules, 1972, the Respondents were bound to count 50% of his service as Casual Labour towards his qualifying service for Pension. It was not done by the Respondents and, therefore, he has filed the present OA for the said relief. The application is resisted.

3. After hearing the learned counsel for the parties and perusing the record, I find that the claim of the applicant is supported by two single bench decisions of this Tribunal. One is of B.R.Jadhav vs. UOI, (1996) 33 ATC 58 (Bombay) and the other is of T.G.Salve vs. UOI, O.A. No.1042/96, decided on 27.11.1997 (Bombay). The learned counsel for the respondents could not distinguish the present case with those relied on by the learned counsel for the applicant. He only submitted that both the cases were single bench decisions and required consideration in the light of the decision rendered by Calcutta Bench of the Tribunal in Smt.Sibarani Chatterjee vs. UOI, 1999 (1) SLJ (CAT) 105 (Calcutta).

4. The decision of the Calcutta Bench of the Tribunal in Smt.Sibarani Chatterjee (supra) is quite distinguishable on facts. In this case the widow of a Casual Labour with temporary status before regularisation or appointment against a permanent post, claimed family pension from the Railways. The claim was rejected because the employee had died as a Casual Labour and as per Railway Rules, Casual Labour with temporary status was not entitled to pension before regularisation. Moreover, the aforesaid Government of India's decision at Sl.No.2 below Rule 14 of Chapter III of the CCS (Pension) Rules, 1972 is not applicable to Casual Labour employee of the Railways or to Railway Servants as provided in Rule 2(a) of Chapter I of the CCS(Pension) Rules, 1972.

5. For the foregoing reasons, this OA succeeds and it is hereby allowed. The respondents are directed to reckon 50% service of the applicant as Casual Labour towards his qualifying service for pension as a Mazdoor. No costs.

*Km*  
(K.M. AGARWAL)  
CHAIRMAN.