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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH
CAMP AT NAGPUR

O.A. No. 788/90
~~TX/XXN61~~

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DATE OF DECISION 9.7.1991

Narayan Jairam Wasnik Petitioner

Mr. Mohan Sudame Advocate for the Petitioner(s)

Versus

Divisional Railway Manager, Respondent
Nagpur.


Mr. P.S. Lambat Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. U.C. Srivastava, Vice-Chairman

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

1. Whether Reporters of local papers may be allowed to see the Judgement ?
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 ?


 (U.C. Srivastava)
 Vice-Chairman

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY,
CAMP AT NAGPUR

Original Application No.788/90

Narayan Jairam Wasnik,
R/o Lata Kunj,
Bezonbagh Post Office,
Nagpur.

... Applicant

V/s

Divisional Railway Manager,
South-Eastern Railway,
Nagpur.

... Respondent:

CORAM : Hon'ble Vice-Chairman, Shri U.C.Srivastava
Hon'ble Member (A), Shri P.S.Chaudhuri

Appearances:

Mr. Mohan Sudame, Advocate
for the applicant and
Mr. P.S.Lambat, Advocate
for the respondent.

ORAL JUDGEMENT:

Dated : 9.7.1991

(Per. U.C.Srivastava, Vice-Chairman)

The applicant was appointed as a Casual Labourer in May 1956 and his services were utilised as Painter Helper and since then he was continued and thereafter he became a Khakasi with effect from 13.2.1957 in which post his services were regularised with effect from 1.6.1959. Thereafter with effect from 24.11.1961 he was promoted as a Skilled Artisan, i.e. Mason. He continued to work as such till 30.4.1988 when he retired. It is his claim that he is entitled pensionary benefits from the year 1956 but this has been denied to him on the ground that the period he was a casual labour cannot be counted as qualifying service for pension.

2. The railway administration put in appearance and contested the case. A preliminary objection was raised that the applicant has come at a late stage and the

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application should be rejected as time barred. The objection is worth rejection. The applicant is claiming certain pensionary benefits and for pensionary benefits limitation cannot come in the way. Even otherwise also the applicant has been making representations against the denial of these benefits by the railway administration. A case for condonation of delay has been made out and the delay is accordingly condoned.

3. The railway administration then submits that the regular appointment of the applicant started on 24.11.1961. But Office Memorandum dated 14th May 1968 issued by the Government of India, Ministry of Finance (Department of Expenditure) provides:-

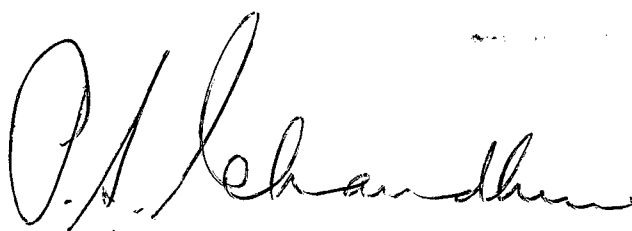
- "(a) Service paid from contingencies should have been in a job involving whole time employment (and not part-time for a portion of the day).
- (b) Service paid from contingencies should be in a type of work on work or job for which regular posts could have been sanctioned e.g. malis, chowkidars, Khalasi etc.
- (c) The service should have been one for which the payment is made either on monthly or daily rates computed and paid on a monthly basis and which though not analogous to the regular scale of pay should bear some relation in matter of pay to those being paid for similar jobs being performed by staff in regular establishments.
- (d) The service paid from contingencies should have been continuous and followed by absorption in regular employment without a break.
- (e) Subject to the above conditions being fulfilled, the weightage for past service paid from contingencies will be limited to the period after 1.1.1961 for which authoritative records of service may be available."

The Railway Board's letter dated 14th October 1980 makes the position still more clear. It states that certain disputes were raised and ultimately:

" Railways have decided with the approval of the President, that the benefit of such service rendered by them as temporary employees before they are regularly appointed should be conceded to them as provided in the Ministry of Finance O.M.No.F.12(I)_SV/68 dated 14th May 1968. The concession of counting half of the above service as qualifying for pensionary benefits as per the O.M. of 14th May 1968 would be made applicable to casual labour on the railway who have attained temporary status. The weightage of the past service would be limited from 1.1.1961 in terms of condition(s) of the O.M. ibid. Past cases of retirement before the date of this letter will not be reopened."

4. The applicant admittedly retired in the year 1988 and as such he is entitled to the benefit of this letter. Undoubtedly the applicant is not entitled to count the period from 1956 but there is no way in which he cannot be allowed to count it from 1.1.1961.

5. Accordingly this application is partly allowed and a direction is given to the railway administration to count the period from 1.1.1961 as qualifying period for pensionary benefits in terms of the Railway Board's letter dated 14.10.1980 and thereafter to calculate his pension and other retirement benefits according to rules and fix and pay the same including arrears. Let this be done within a period of three months from the date of communication of this order. There will be no order as to costs.



(P.S. Chaudhuri)
Member (A)



(U.C. Srivastava)
Vice-Chairman