

CENTRAL ADMINISTRATIVE TRIBUNAL  
BENCH AT MUMBAI

ORIGINAL APPLICATION No. 134/1998

Date of Decision: 9/7/98

Shri Kashinath Lahu Sali

Petitioner/s

Shri V.H. Kulkarni

Advocate for the  
Petitioner/s

V/s.

Shri Union of India & Ors.

Respondent/s

Shri R.R. Shetty

Advocate for the  
Respondent/s

CORAM:

Hon'ble Shri Justice R.G. Vaidyanatha, Vice Chairman.

Hon'ble Shri

- (1) To be referred to the Reporter or not? *no*
- (2) Whether it needs to be circulated to other Benches of the Tribunal? *no*

abp.

  
(R. G. VAIDYANATHA)  
VICE CHAIRMAN.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GULESTAN BLDG.NO.6,4TH FLR,PRESCOT RD,FORT,  
MUMBAI - 400 001.

ORIGINAL APPLICATION NO.134/98.

DATED THE 9TH DAY OF JULY, 1998.

CORAM:Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman.

1. Shri Kashinath Lahu Sali,  
residing at Laxmi Colony,  
3/3/ at Malwadi Tal.Maval,  
Dist.Pune Pin-410 508.

... Applicant.

By Advocate Shri V.H.Kalkarni.

V/s.

1. Union of India,  
through General Manager,  
Central Railway,  
Mumbai - 400 001.

2. The Divisional Railway Manager,  
(Personnel), Central Railways,  
Chatrapati Shivaji Terminus (V.T.),  
Mumbai - 400 001.

3. The Financial Adviser,  
& Accounts Officer,  
Central Railways,  
Chatrapati Shivaji Terminus(V.T.),  
Mumbai - 400 001.

4. Divisional Store Keeper,  
Central Railways, Pune,  
Pune Railway Station,  
Pune - 411 001.

5. Divisional Mechanical Engineer(Diesel),  
Central Railways, Kurla, Bombay.

6. Permanent Way Inspector (M) TGM,  
Talegaon Railway Station,  
Pin-410 507.

... Respondents.

By Advocate Shri R.R.Shetty.

I O R D E R I

I Shri R.G.Vaidyanatha, Vice Chairman I

1. This is an application filed by the applicant claiming a declaration that his previous service from 1/1/1956 to 31/11/89 should be counted for purpose of Pension and that the applicant be accorded pensionary and other consequential benefits as per Railway Service Pension Rules. Respondents have filed reply opposing the application.

Heard both the Counsel.'

The applicant was earlier working as a Casual labourer in the Railways and attained temporary status on 1/1/81. He retired from service on 31/10/89. The applicant's contention is that his previous service as casual labour prior to 1/1/81 should be taken into account for the purpose of qualifying for getting pension and should be added to the service from 1/1/81 to 31/10/89. Therefore, the applicant's case is that he is entitled to Pension and Pensionary benefits as per rules.'

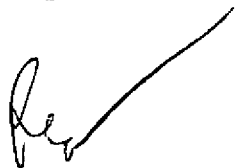
2. The respondents contention is that applicant's past service as casual labour prior to 1/1/81 cannot be counted as qualifying service for purpose of Pension. The respondent's further contention is that the applicant was a CPF member and after attaining superannuation on 31/10/89, he took away the entire Provident Fund amount and after 9 years, he cannot now approach this Tribunal for relief of Pension.

3. After hearing arguments regarding admission, I am not satisfied for getting the OA admitted.'

No doubt there is serious dispute between the parties whether the service prior to 1/1/81 should be counted for purpose of Pension or not. Leaving that question apart, it is admitted that the applicant was a member of CPF (Contributory Provident Fund), he has received the provident fund amount on attaining superannuation. Now after 9 years he has come up with the present OA asking for Pension and Pensionary benefits.

4. In my view the application is liable to be rejected on two grounds.

First ground is that the applicant was a member of CPF and after receiving the amount on superannuation, he cannot now turn around and say that he is entitled to Pension.



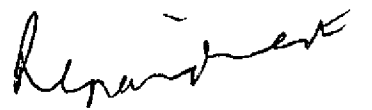
On the ground of limitation delay and latches.

The applicant attained superannuation on 31/10/89 and he has approached this Tribunal 9 years later. In my view delay of 9 years comes in the way of getting any relief. The reason given by the applicant for delay and latches that he was sending representations and therefore his case being considered has no merit.

5. The law is well settled that sending repeated representations will not save limitation. If the reply to representation is not received within a period of six months, the applicant should have approached this Tribunal. As provided under Section-21, a person has to approach this Tribunal either within one year from the date of cause of action or atleast after six months of submission of representation. He cannot come here after a lapse of 9 years and that too after getting the benefit of CPF.

Hence, in my view no case is made out for admission and the OA is liable to be rejected.

6. In the result, the OA is rejected at the time of admission. There will be no orders as to costs.

  
(R. G. VAIDYANATHA)  
VICE CHAIRMAN

abp.