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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.611/89.

Date of Judgment 21-3-91

H.P.Raja Titus .. Applicant

Vs.

1. Govt. of India,
represented by
Secretary,
Ministry of Railways,
New Delhi.
2. Chairman,
Railway Board,
Rail Bhavan,
New Delhi.
3. General Manager,
South Central Railway,
Secunderabad-A.P.
4. Divl. Superintendent,
Guntakal Division,
South Central Railway,
Guntakal,
Anantapur Dist., A.P. .. Respondents

Counsel for the Applicant : Shri G.Bikshapathi

Counsel for the Respondents : Shri N.V.Ramana,
SC for Railways

CORAM:

Hon'ble Shri J.Narasimha Murthy : Member(Judl)

Hon'ble Shri R.Balasubramanian : Member(Admn)

{ Judgment as per Hon'ble Shri R.Balasubramanian,
Member(Admn) }

This application has been filed by Shri H.P.Raja
Titus against the Govt. of India, represented by Secretary
Ministry of Railways, New Delhi and 3 others under
section 19 of the Administrative Tribunals Act, 1985.

2. The applicant joined the Railway service on 19.8.57

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It is stated that he was not allowed to perform his duties after 26.2.62 without any valid order. According to the applicant he had protracted correspondence and representations and he was reappointed by the 4th respondent as Junior Clerk vide his letter dated 29.3.75. Accordingly, he joined as Junior Clerk at Cuddapah on 7.4.75. It is also stated that his services were confirmed in the post of Junior Clerk and he was promoted as Senior Clerk in 1983-84. It is further stated by the applicant that he was directed by the 4th respondent to report to the Govt. Hospital for Mental Care at Hyderabad for examination and opinion. The said hospital authorities examined the applicant on 24.7.84 and found that he was unfit to resume duty as he was suffering from Chronic Schizophrenia. The said opinion was sent by the Govt. Hospital for Mental Care at Hyderabad vide their letter dated 13.9.84. Thereafter, the Divisional Medical Officer, South Central Railway, Guntakal issued certificate on the basis of certificate issued by the Govt. Hospital for Mental Care at Hyderabad. In pursuance of the said certificate the 4th respondent issued a letter dated 12.12.84 terminating the services of the applicant with effect from 27.11.84. The applicant wants that the break between 1962 and 1975 should be condoned and that his qualifying service should be taken as from 19.8.57 to 27.11.84 for purpose of pension etc. He made several representations and no response was forthcoming and hence this petition. He has prayed that the

respondents be directed to give him invalid pension or ordinary pension duly condoning the break in service from 26.2.62 to 7.4.75.

3. The respondents have opposed the petition. They refute his claim that from 26.2.62 he was prevented from performing his duties. According to them, he joined as a Probationary Junior Clerk on 19.8.57. He was absorbed as a Temporary Commercial Clerk on 7.12.58 and from 26.1.61 he absented from duty. According to the rules, a temporary employee who had not completed 3 years of service if he was absent for such a long period his services were deemed to have been terminated and hence he was deemed to have been terminated from 26.2.62. It is admitted that he was appointed afresh as a Temporary Clerk on the orders of the General Manager, Southern Railway. In that order it was clearly stated that his previous service will not count for any purpose. The petitioner was under sick list from 27.1.84 to 27.11.84. The Divisional Medical Officer, Guntakal certified that he was medically unfit and the applicant submitted a declaration that he did not propose to lodge an appeal to the Chief Medical Officer, Secunderabad against the decision of the Divisional Medical Officer, Guntakal. Therefore, his services were terminated with effect from 27.11.84 afternoon. The respondents deny that there is no record available to the effect that the petitioner was directed to the Govt. Hospital for Mental Care at Hyderabad, at any stage. It is also contended that the petitioner being a temporary

employee and not confirmed in any of the grades in which he had worked at the time of his being declared medically unfit he is not entitled to any pension according to the Railway Board's letter No.P(E)111-78-PN-1/13 dated 21.2.81. According to this letter, a temporary employee will be eligible for pension only if he has put in 20 years of qualifying service. In cases where they have put in less than 20 years of service, they are eligible only for terminal gratuity according to para 707 of Railway Pension Rules, 1950. Accordingly, he was paid only a sum of Rs.2,320/- as terminal gratuity.

4. We have examined the case and heard the learned counsels for the applicant and the respondents. We have seen the Railway Board's letter dated 21.2.81 referred to by the respondents. The applicant's claim for condoning the break in service is not tenable. The terms of fresh appointment had been clearly told to him and he can have no claim over the past service at the time of his fresh appointment in 1975. The relevant portion of the order is as follows:

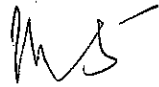
"In terms of Rule-2403-R-II a Railway servant appointed substantively to a Railway service or post in pensionable establishment is eligible for the grant of pension and death-cum-retirement gratuity. A Railway servant who, at the time of retirement from service does not hold a lien on a permanent pensionable post is not eligible for pension and DCRG but is eligible for terminal gratuity under para-707 of the Manual of Railway Pension Rules, 1950. The question of grant of pension to Railway servants, who retire after long years of service without being confirmed in any post has been under consideration in consultation with the Department of Personnel & A.R. The position has been reviewed and the President is pleased to decide that a railway servant who on his retirement from service on attaining the age of superannuation or on his being declared to be permanently incapacitated for further Railway service by the appropriate medical authority after he has rendered

temporary service of not less than 20 years shall be brought within the purview of Railway Pension Rules and the condition of holding a pensionable post in a substantive capacity shall be dispensed with, in his case. Consequently, such a railway servant will be eligible for the grant of superannuation or invalid pension, DCRG and Family Pension in accordance with the provisions of the aforesaid Rules."

~~For that matter~~ Even a regular employee is required to put in 10 or more years of qualifying service and earn a pension according to Rule 623 which states:

"A Railway servant who has completed less than 10 years qualifying service is entitled to only a gratuity. Pension is granted to Railway servants who have completed 10 or more years qualifying service."


The applicant had only 9 years 7 months and 20 days of service on the date of his invalidated retirement. Hence, in terms of the Railway Board orders, the applicant is not entitled to any pension and we dismiss the application with no order as to costs.



(J.Narasimha Murthy)
Member(Judl).



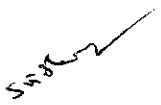
(R.Balasubramanian)
Member(Admn).

Dated 21st March 91 for  Deputy Registrar(J)

To

1. The Secretary, Govt. of India,
Ministry of Railways, New Delhi.
2. The Chairman, Railway Board, Rail Bhavan, New Delhi.
3. The General Manager, S.C. Railway, Secunderabad A.P.
4. The Divl. Superintendent, Guntakal Division,
S.C. Railway, Guntakal, Anantapur Dist. A.P.
5. One copy to Mr. Shri G. Bikshapathi, Advocate, CAT. Hyd.
6. One copy to Mr. N.v. Ramana, SC for Rlys, CAT. Hyd.
7. One copy to Hon'ble Mr. J. Narasimha Murthy, Member, (J) CAT. Hyd.
8. One copy to Hon'ble Mr. R. Balasubramanian, Member (A) CAT. Hyd.
9. One spare copy.

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CHECKED BY

APPROVED BY

TYPED BY

COMPARED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR. B. N. JAYASIMHA : V.C.

AND

THE HON'BLE MR. D. SURYA RAO : M(J)

AND

THE HON'BLE MR. J. NARASIMHA MURTY : M(J)

AND

THE HON'BLE MR. R. BALASUBRAMANIAN : M(A)

Dated: 21-3-1991.

~~ORDER~~ / JUDGMENT:

M.A./R.A. /C.A. NO.

in

T.A.No.

W.P.No.

O.A.No.

611/89

Admitted and Interim directions
issued.

Allowed

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for default

M.A. Ordered/Rejected.

No order as to costs.

