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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:

HYDERABAD

O.A.NO. 1276 OF 1999

DATE OF DECISION: 22-6-2000.

BETWEEN

Smt.N.Sarojini.

and

1. Divl.Railway Manager(P), S.C.Rly,
Vijayawada and others.

COUNSEL FOR THE APPLICANT:: Mr. G.V.Subba Rao

COUNSEL FOR THE RESPONDENTS: Mr. K.Siva Reddy

CORAM:

THE HON'BLE SRI JUSTICE D.H.NASIR, VICE CHAIRMAN

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether the Judgment is to be circulated to the other Benches ?

JUDGMENT DELIVERED BY HON'BLE SRI JUSTICE D.H.NASIR, VC.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
HYDERABAD

O.A.No.1276 of 1999.

DATE OF ORDER: 22-6-2000.

Between:

Smt.N.Sarojini, w/o N.Vittal,
Retd.Ticket Collector, 21-10-17,
IIIrd Street, Srinagar, Vijayawada. ...Applicant

and

1. Divisional Railway Manager(P),
South Central Railway, Vijayawada.
2. Sr.Divisional Accounts Officer,
South Central Railway, Vijayawada-3.
3. General Manager, South Central
Railway, Rail Nilayam, Secunderabad.

...Respondents

COUNSEL FOR THE APPLICANT :: Mr.G.V.Subba Rao

COUNSEL FOR THE RESPONDENTS : Mr.K.Siva Reddy

CORAM:

THE HON'BLE SRI JUSTICE D.H.NASIR, VICE CHAIRMAN

: O R D E R :

(PER HON'BLE SRI JUSTICE D.H.NASIR, VICE CHAIRMAN)

1. The only point arising for our consideration in this OA is whether the following directions given by the Hon'ble Supreme Court in SLP.Nos.974-975/97 should be treated as the direction to treat the entire period of service, spread over 26 years, is eligible for the purpose of pension or whether it is limited to a period of 10 years only, which is the

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minimum period required for securing pension:-

'We, therefore, allow the appeals and set aside the impugned order and direct the Railway, in the special facts of the case, to treat the appellant regularised from such point of time so that she is treated to have rendered qualifying service for earning the pensionary benefits.'

2. The order of the Hon'ble Supreme Court opens with an observation that "it appears to us that the appellant having rendered 26 years of useful service to the Railway Administration, in the special facts of the case, she deserved recognition of such service from the Railway and consequential regularisation of service earlier so that before retirement she would have got the benefit of qualifying service to earn pensionary benefits".

3. The applicant was appointed as a "Social Guide" in the Railway at Vijayawada Railway Station on payment of honorarium as an experimental measure for three months on 16-2-1962. She was selected by a Committee of officers which included the DS, Vijayawada, from a list of candidates referred to the Railway by the Bharat Sevak Samaj. She was continued in that capacity ^{til} until 20-4-1989 with revision of remuneration from time to time on pro-rata basis on par with regular permanent passenger guides. The nature of duties of the applicant was similar to that of passenger guides in guiding the passengers at Vijayawada Station travelling by different trains and help them in entraining and detraining. During 1986 the Railway Board issued a letter to absorb Social Guides working on certain remuneration as Ticket Collectors or Booking Clerks if found suitable for absorption. Consequent on the regularisation of the services

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of the applicant, she was trained and absorbed as Ticket Collector at Vijayawada on 21-4-1989 and subsequently she retired on superannuation on 31-12-1989.

4. Further according to the applicant, at the relevant point of time, the procedure followed in regularisation of casual labour services and fixation of pay in the case of Group-'D' employees was applied to the applicant's case and her name was included for granting of temporary status and fixation of pay at the time of her retirement i.e., as on 31-12-1989. However, after some time, the letters granting temporary status and fixation of pay were cancelled on the ground that she was not a casual labour or a temporary employee or permanent ^{staff} of the Railway Administration. She was paid honorarium only and hence, not qualified for any retiral benefits.

5. The applicant, therefore, filed OA.No.982 of 1991 on the file of this Tribunal, which was, however, dismissed. Aggrieved by the same, she filed SLP Nos.974-975/97 in Civil Appeal No.330/31 of 1998 in the Supreme Court of India. The same were disposed of by the Hon'ble Supreme Court with the observations and directions as stated above in the first paragraph.

6. The learned Standing Counsel Mr.Siva Reddy vehemently argues that the Order of the Hon'ble Supreme Court did not contain a specific direction that the entire length of the applicant's service spread over 26years be treated as qualifying service for pension, and therefore, according to Mr.Siva Reddy, the minimum period of qualifying service which is 10 years should only be considered as the period for which retiral benefits could be granted to the applicant.

7. On the otherhand the learned Counsel Mr. Subba Rao for the applicant pressed his point by referring to and relying upon the decision of the Ernakulam Bench of this Tribunal in the case of P. NARAYANAN v. UNION OF INDIA & OTHERS (reported in 1989 Volume 9 Administrative Tribunals Cases, 195.), in which the Bench observed in paragraph 5 that, Rule.4 of the Pension Rules made it clear that temporary or officiating service rendered by the government servant without interruption by confirmation in the same or another post"shall count in full as qualifying service".

8. The facts of the case before us are all over basically different from the facts before the Ernakulam Bench in the above case. It is not disputed before us that the applicant had served the Railways for 26 years continuously. What is urged before us is that the applicant was paid a honorarium only and not regular pay and allowances. This point, however, had been considered by the Hon'ble Supreme Court in the aforesaid SLP with a consequential direction that the applicant should be treated as regularised from such point of time so that she is treated to have rendered qualifying service for earning the pensionary benefits. "Such point of time", in our opinion, does not include the entire length of service of the applicant. It goes to show that the applicant was required to be treated as regularised from such point of time that she could be considered eligible to have rendered qualifying service for earning the pensionary benefits. If that was not the intention of the Hon'ble Supreme Court, it was not

necessary to qualify the direction by stating that the applicant should be regularised from such point of time so that she is treated as having rendered qualifying service for pension. The Hon'ble Supreme Court consciously made this point clear by stating in the afore-mentioned part of the Order that the appellant had rendered 26 years of useful service. If the intention was to allow the benefit to her for the entire period of 26 years, perhaps the Hon'ble Supreme Court would have stated that the appellant should be regularised from the date of her appointment so that she would be eligible for earning the pensionary benefits. By using the term "qualifying service" read with the expression "from such point of time" the Hon'ble Supreme Court confined the benefit of its Order to the minimum service, which could be termed as qualifying service for pension.

9. With utmost respect to the Hon'ble Supreme Court, therefore, the only meaning which could be attributed to the expression used by the Hon'ble Supreme Court as discussed above that the minimum qualifying service of 10 years was kept in view when the aforesaid order was passed.

10. In the above view of the matter, therefore, the OA is dismissed. No costs.

D.H.NASIR
(D.H.NASIR)
VICE CHAIRMAN

DATED: this the 22nd day of June, 2000

DSN

*My
Signature*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH, HYDERABAD

~~1ST AND 2ND COURT~~

TYPED BY
COMPARED BY

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APPROVED BY

COPY TO:

1. HONJ ✓
2. HRRN (ADMN) MEMBER
3. HBSJP (JUDL) MEMBER
4. D.R. (ADMN) ✓
5. SPARE ✓
6. ADVOCATE
7. STANDING COUNSEL

THE HON'BLE MR. JUSTICE D.H. NASIR
VICE-CHAIRMAN

THE HON'BLE MR. R. RANGARAJAN
MEMBER (ADMN)

THE HON'BLE MR. B.S. JAI PARAMESHWAR
MEMBER (JUDL)

DATE OF ORDER 22/6/2000

MA/RA/EP. NO.

IN

DA. NO. 1276/99

(8 copies)

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

C.P. CLOSED

R.A. CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDER REJECTED

NO ORDER AS TO COSTS

