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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

QA 99/94 : Date of order 13.1.94

Moolia : Applicant

V/s

Union Of India & Others : Respondents.

Mr. J.K. Kaushik : Counsel for the applicant

Mr. Abdul Helam : Brief holder for Mr. M. Rafiq
Counsel for the respondents.

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Hon'ble Mr. N.K. Verma, Member (Administrative)

PER HON'BLE MR. N.K. VERMA, MEMBER (ADMINISTRATIVE)

In this QA the applicant ~~who~~^{he} is a retired official of the Railways has assailed the impugned order dated 29.6.93 under which his representation for rectification in the date of birth and his claim for temporary status w.e.f. 1.1.61 has been rejected by the respondents. Shri Kaushik, the learned counsel for the applicant submitted during the hearing that since the change in the date of birth involves only three months, he is not pressing that point. However, what is important for the applicant is the seniority of his service, which would affect his pension very substantially. As per the record of service card as a casual labour, submitted at Annexure A-2, the applicant worked for 255 days w.e.f. 1.1.61 and thereafter uptill 1.1.65 he had rendered more than 180 days each year. As per the instructions issued by the Railway Board, he should have been conferred temporary status since 1.1.61. In support of his arguments, he has drawn attention Annexure B-2, according to which the Railway Respondents have themselves conceded that as per the Railway Board's letter dated 1.9.65, it was laid down that the substitute should be afforded all rights and privilege as admissible to temporary railway servant on completion of six months continuous service. It also says that the substitute service rendered before the issue of these orders

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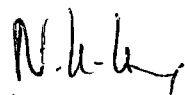
will also be regulated accordingly. In view of this clarifactory orders submitted by the respondents themselves, the question of grant of temporary status to the applicant w.e.f. 1.1.61 becomes crystal clear. He has been in continuous engagement as per the casual labour card during all the months from the year 1961 onwards till 1972 when he was finally granted temporary status and absorbed as a Kangan. The respondents have not denied the intermittent engagements obtained by the applicant during the period from 1961 to 1972 but they are reiterating the fact that as per the service book of the applicant, he was recruited on 21.8.71 and conferred as a temporary status on 21.2.72. Having once accepted the fact that he has been working since 21.8.71 with reference to his service book, the other engagements prior to that date cannot be denied now. At no point have the respondents suggested that the record of service, submitted by the applicant is not reliable.

2. Shri Kalam, Brief-holder for the learned counsel for the respondents, Mr. M. Rafiq, was not able to controvert the arguments of the learned counsel for the applicant. There was no submission from the respondents' side as to why the issue regarding grant of temporary status in 1972 was not represented earlier by the applicant before his retirement. As per the learned counsel for the applicant, the applicant came to know about belated entry in regard to his temporary status only after he had retired and he was granted pension taking into account only 21 years of service. According to his own calculation he had rendered more than 33 years of service which could have entitled him to grant of full pension. According to the learned counsel for the applicant, there was no system of showing the service book to any employee from time to

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so that the employee could become aware about the entries made in the service book and any disadvantageous position could be rectified by timely action by making appropriate representation. The respondents have not controverted this statement of letting the employees to know the various entries in the service book.

3. After having heard the learned counsel for the applicant and the facts of the case, I am quite convinced that the applicant had acquired temporary status in the light of the Railway Board's letter produced at Annexure R-2 in 1961. The Railway Administration should have themselves granted him the temporary status on the basis of this letter as he is fully entitled to the advantages falling out of this letter. Therefore the OA succeeds. The Railway respondents will now take steps to grant him temporary status from 1.1.61 and re-fix his pension accordingly, taking his service as substitute as per qualifying service for grant of pension within three months from the date of receipt of a copy of this order. Orders accordingly, without costs.


(N.K. VERMA)
MEMBER(A)