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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

C.P.No.173/95

Date of order: 30.9.92

(on 5/94)
Smt.Gyan Kumari

: Petitioner

Vs.

1. Shri M.Pavindra, General Manager, Western Railway, Church Gate, Bombay - 20.
2. Shri Anil Handa, Deputy C.M.E (C&W), Western Railway, Ajmer Division, Ajmer.

...Respondents.

Mr.S.K.Jain - Counsel for petitioner

Mr.M.Rafiq - Counsel for respondents

CORAM:

Hon'ble Mr.O.P.Sharma, Administrative Member

Hon'ble Mr.Patan Prakash, Judicial Member.

PER HON'BLE MR.O.P.SHARMA, ADMINISTRATIVE MEMBER.

Smt.Gyan Kumari has filed this Contempt Petition under Sec. 17 of the Administrative Tribunals Act, 1985, praying therein that the respondents may be punished for contempt of the Tribunal for not implementing its judgment dated 24.8.95 (Annx. CP/1) and that they may be ordered to comply with the aforesaid judgment forthwith and pay arrears of pension and other pensionary benefits to the petitioner alongwith interest at 24% per annum.

2. The petitioner was appointed as Hot Weather Water-woman on 6.5.1976 in the Ajmer Division of the Western Railway, on death of her husband, a railway employee. The issue involved in the O.A was for payment of pension and pensionary benefits to her. She had retired from service on 31.1.1989. She was granted appointment on regular basis vide order dated 7.5.1981. She had prayed in the O.A that the period of working as Hot Weather Water-woman from May 1976 to May 1981 be counted for pensionary benefits by declaring her appointment as a regular one on compassionate ground, for the purpose of pension or

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alternatively the above period being the period of temporary service be counted for the purpose of pensionary benefits. The Tribunal vide order dated 24.8.95 (Annex.CP/1) had held that the applicant had become eligible for grant of temporary status in 1976 and therefore she was entitled to the benefits ^{available} to a temporary status holder for the purpose of determining her eligibility to pension, regardless of whether an order granting temporary status to her had been passed or not. The Tribunal further held that under the Rules she was eligible to count only half the period of service rendered after attaining temporary status and before regular absorption, as qualifying service for the purpose of pensionary benefits and this benefit would be available to her after absorption in regular employment. In para 8 of the Tribunal's order, which is the operative part, it was further held as follows:

...."The applicant had been absorbed in the regular employment in 1981 and she retired from service as a regular employee on 31.1.1989. Therefore half of the period of service rendered by her as one who is deemed to have been granted temporary status in 1976 shall be taken into account for working out her eligibility to pension. She completed 120 days service in the beginning of Sept. 1976. Half the period of service after that till the date of her absorption in regular employment shall be considered for working out the qualifying period of service for eligibility to pension. The respondents are directed to take into account the period as aforesaid for working out the qualifying period for her eligibility to pension and to grant her pensionary benefits if admissible on that basis. If still there is any short fall in arriving at the qualifying period of 10 years for eligibility to pension, it would be for the respondents to consider relaxing the

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requirement to that extent but we cannot give any specific direction in this regard."

3. The respondents passed order Annx.CP/2 dated 10.10.95 stating that half the period of service rendered between 6.5.1976, which was the date of her initial appointment, and 7.5.1981, which was the date of her regularisation, came to 455 days and after adding the period of service after absorption in regular service, the total period of service worked out to 8 years 11 months and 29 days, and since this period, fell short of 10 years or ^{even} 9 years 9 months she was not eligible for pension.

4. In the Contempt Petition, the petitioner has stated that as per the Tribunal's order, the respondents have to count the complete period from Sept.1976, when she completed 120 days of service, to 7.5.1981, the date on which she was absorbed in regular service, and this period worked out to 4 years and 7 months approximately. The respondents were therefore not justified in adding a period of only 455 days out of 909 days, which were the actual days of working of the petitioner falling during the period from Sept.1976 to 7.5.1981. According to the petitioner, the respondents have to take into account the entire aforesaid period for the purpose of determining her length of service to qualify for pensionary benefits and not merely the actual number of days on which she had worked during the aforesaid period. If half of the total period between Sept 1976 to 7.5.1981 is added for the purpose of determining the qualifying period for pension, she would be found to have completed 10 years of service and would be eligible for pension. The respondents have deliberately flouted the order of the Tribunal by adding only half of the actual number of days the petitioner had worked during the period from Sept 1976 to 7.5.1981. Therefore, they are liable to be punished for

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deliberate contempt of the Tribunal.

5. During the arguments the learned counsel for the petitioner read out the operative portion of the Tribunal's order dated 24.8.95 and added that it left no scope for any ambiguity that the entire period of her service between 1976 and 1981 has to be considered for the purpose of determining the length of qualifying service for pensionary benefits. He further stated that if the respondents were for any reason not inclined to accept the Tribunal's order, the remedy open to them was to seek a review of the order and not to flout it in the manner they have done.

6. The respondents in their reply have stated that they have counted half of the actual period of service rendered by the petitioner in broken spells during the period from 6.5.1976 to 7.5.1981 as Hot Weather Water-woman on daily wages and according to their calculations, after adding the period of service rendered after regular employment, the total period of qualifying service works out to 8 years 11 months and 29 days. Therefore, the petitioner is not eligible for pension. They have denied that they have deliberately flouted the order of the Tribunal.

7. We have considered the matter carefully and have perused the material on record. The respondents appear to have interpreted the directions of the Tribunal reproduced earlier as to mean that the service period as aforesaid would consist of the actual number of days on which the petitioner rendered service and not the entire period including holidays and other days on which she did not perform duty, for one reason or the other. They have accordingly issued an order dated 10.10.95 (Annx.CP/2) and denied the benefit of pension to the petitioner. A perusal of this order exhibits that it has been issued in compliance with the directions given by the Tribunal in O.A No.56/94 dated 24.8.95. We, therefore, at this stage do

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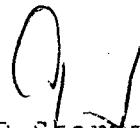
not find that there has been any deliberate flouting of the order of the Tribunal dated 24.8.1995. However, if the petitioner is still aggrieved by the order dated 10.10.1995 issued by the respondents (Annex.CP/2), he is at liberty to pursue the matter by initiating separate proceedings.

8. In view of the above discussion, the Contempt Petition is dismissed. Notices issued are discharged.



(Patan Prakash)

Judicial Member.



(O.P.Sharma)

Administrative Member.