

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.177/96

Date of order: 6. 4. 2000

Smt.Kaushalya, D/o Kalo, R/o Loco Colony, Phulera, last employed as Beldar (Khallasi) under PWI, Phulera, W.Rly, Jaipur Division, Jaipur.

...Applicant.

Vs.

- 1. Union of India through General Manager, Western Railway, Churchgate, Mumbai.
- 2. Divisional Rail Manager(E), Western Rly, Jaipur Division, Jaipur.
- 3. Permanent Way Inspector, W.Rly Phulera, Jaipur Divn, Phulera

...Respondents.

Mr.Shiv Kumar - Counsel for the applicant

Mr.B.S.Mathur - Counsel for respondents.

CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member

PER HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER.

In this Original Application under Sec.19 of the Administrative Tribunals Act, 1985, the applicant makes a prayer to direct the respondents to sanction the pension and other retiral benefits to the applicant alongwith payment of arrears, etc.

2. The case of the applicant is that he was initially engaged as casual labour on 3.12.79 in Rajkot. Thereafter he was granted temporary status w.e.f. 1.1.83 and retired on superannuation vide order dated 31.5.95 w.e.f. 31.5.95. It is stated that the applicant is a temporary railway servant and he is entitled to pensionary benefits as per the provisions given in Rule 18 of the Railway Service Pension Rules, 1993, therefore, the applicant filed this O.A for the relief as mentioned above.

3. Preliminary objections were filed by the respondents. The main objection was regarding jurisdiction and impleading D.R.M, Rajkot.

4. Heard the learned counsel for the applicant and also perused the whole record.

5. Under Rule 3(23) of the Railway Services (Pension) Rules, 1993 and under Rule 623 of the Manual of Railway Pension Rules, 1950, the applicant is not a temporary Railway servant as stated by the applicant.

6. It has been made very specific in the rules that pension is payable to a railway servant if he completes 10 years or more qualifying service before superannuation. Admittedly the applicant was conferred temporary status w.e.f. 1.1.83 and he was

superannuated w.e.f. 31.5.95, before superannuation, he was not regularised on a Group-D Post. Qualifying service of the applicant till superannuation was not of 10 years or more so as to entitle him for pension and pensionary benefits.

7. In Ram Kumar & Ors Vs. UOI & Ors, AIR 1998 SC 390, it was held by Hon'ble Supreme Court that pensionary benefits are not admissible to casual labour acquiring temporary status.

8. In Gita Rani Santra Vs. UOI & Ors, ATJ 1997(2) 23, it was held by the Calcutta Bench of the Tribunal as follows:

"Considering the fact that a regular railway servant can claim pension after rendering 10 years of qualifying service and that the service rendered by the casual labour with temporary status is counted only to the extent of 50% for computation of qualifying service, we consider that 20 years period is a reasonable one."

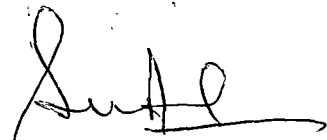
9. In UOI & Ors Vs. Rabia Bikaner, etc. SCSLJ 1997(2) 263, Hon'ble Supreme Court while following its earlier decision in Ram Kumar's case and the case of Union of India Vs. Sukanti & Anr, decided on 30.7.96, has held that no retiral benefit is available to the widow of the casual labour acquiring temporary status who had not been regularised till his death. In this case Hon'ble Supreme Court took note of its judgment in Prabhavati Devi's case and Malati Kar's case.

10. In the instant case, admittedly the applicant did not complete the qualifying service of 10 years on the date of his superannuation.

11. The same point ~~was~~ also came up for adjudication before this Tribunal in O.A No.209/96, Rameshwar Vs. UOI & Ors, decided on 25.10.99. The case of the applicant is squarely covered by the order passed by this Tribunal in the aforesaid O.A No.209/96.

12. In view of the above all, I found no merit in this O.A and the same is deserved to be dismissed.

13. The O.A so filed by the applicant is dismissed with no order as to costs.


(S.K. Agarwal)
Member (J).