

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

\* \* \*

Date of Decision: 30.5.2003

OA 313/2001 with MA 530/2002

Vikas Kumar Gupta s/o Dr.G.P.Gupta r/o 71/297-A, Agarwal Farm, Mansarovar, Jaipur.

... Applicant

Versus

1. Union of India through General Manager, North-Eastern Railway, Gorakhpur (UP).
2. Divisional Rly Manager through Sr.Divisional Personnel Officer, North-Eastern Railway, Bareilly (UP).
3. Asstt.Director L/F (Admn), Small Scale Industry Service Institute, Ministry of SSI & ARI, 22 Godown, Jaipur.

... Respondents

CORAM:

HON'BLE MR.M.L.CHAUHAN, JUDICIAL MEMBER

For the Applicant ... Mr.P.K.Asthana

For the Respondents ... Mr.S.S.Hasan

O R D E R (ORAL)

The grievance of the applicant in this OA is against the order dated 7.6.2001 (Ann.A/1), issued by the railway authorities, whereby it was recorded that the applicant has not submitted resignation from railway service and, therefore, his service record cannot be transferred so long he refunds all expenses incurred during his training plus interest thereon. He has filed the present OA praying for the following reliefs :

- "i) That the impugned communication dated 7.6.2001 (Ann.A/1) be declared illegal and non maintainable.
- ii) The respondent No.1 and 2 be directed to transfer the service particulars, GPF and Insurance deposit balances alongwith admissible interest to his present employer immediately.
- iii) Exemplary cost may also be awarded in favour of the applicant in view of the harassment and mental agony suffered."

2. Notice of this OA was given to the respondents, who have filed reply. In the reply it has been stated that the applicant was appointed as Chief Train Examiner on 30.9.91 and he executed the service bond for five years for not relinquishing services of the railways. Subsequently, he was permitted to seek better opportunity in another organisation of Central Government i.e. SSI. The applicant was relieved to join his duty vide order dated 28.12.95 with the condition that he will have to resign from railway service after he is permanently absorbed, he will remain under Bond from 17.11.92 to 18.11.97 and if he resigns during this period then he will have to refund all the expenses incurred during the training period plus interest thereon. It is further pleaded that the applicant has not refunded the cost as per instructions contained in Para 11.2 and 11.3 of Railway Board's letter dated 9.3.92 (Ann.CA-I to the reply). As such, the service record of the applicant was withheld but subsequently on repeated requests from the side of the present employer the service record of the applicant has been sent to the present employer of the applicant and as such the present OA has become infructuous.

3. The applicant has filed rejoinder. He has also filed MA 530/2002 thereby stating that on receipt of notice of the present OA the respondents have forwarded his service book to his present employer but in the service book the service w.e.f. 18.11.92 to 31.3.95 has been verified, whereas the period spent under Apprenticeship i.e. w.e.f. 30.8.91 to 17.11.92 prior to his absorption in regular employment has not been incorporated. According to the applicant, the period spent under training immediately before appointment to service is to be counted as qualifying service for the purpose of pension and gratuity vide Railway Board's circulars dated 25.4.81 and 14.4.84. However, the applicant has not annexed copy of these circulars. The applicant has thus prayed that the MA (No.530/2002) may kindly be taken on record and this aspect may kindly be considered while issuing appropriate direction to the respondents to count the aforesaid

4

period as qualifying service, even if no such specific <sup>prayer</sup> direction has been made in the OA.

4. I have heard the learned counsel for the parties and gone through the material placed on record.

5. So far as the prayer of the applicant that respondents No.1 and 2 be directed to transfer his service particulars to his present employer, has already been granted and this cause does not survive now. Regarding the transfer of GPF and insurance deposit balance alongwith admissible interest, the respondents in their reply have not controverted that such amount is not required to be transferred to the present employer of the applicant. Under the circumstances, respondents No.1 and 2 are directed to transfer the GPF and insurance deposit balance alongwith admissible interest to the present employer of the applicant within two months from today, in case the same has not been transferred till date.

6. Regarding further prayer of the applicant, as made in MA 530/2002, that the respondents may also be directed to treat the service rendered by him under Apprenticeship w.e.f. 30.8.91 to 17.11.92 as qualifying service in terms of Railway Board's circulars dated 25.4.81 and 14.4.84, it may be stated that no such relief can be granted to the applicant in the present proceedings as this has not been the case of the applicant in the present OA. Further, the applicant has not also annexed copy of the aforesaid Railway Board's circulars, according to which the period spent under Apprenticeship is to be treated as qualifying service for the purpose of pension and gratuity. Since this being a separate cause of action, it will be open for the applicant to make proper representation to the railway authorities regarding this aspect of the matter and if such representation is made, I see no reason for the railway authorities not to dispose of the matter in accordance with rules. However, if the applicant still feels aggrieved, it will be open for him to file a fresh OA subject to limitation.

7. With the observations made above, the present OA as well as MA stand disposed of with no order as to costs.



(M.L.CHAUHAN)

MEMBER (J)