

CENTRAL ADMINISTRATIVE TRIBUNAL  
JABALPUR BENCH

CIRCUIT SITTING AT INDORE

OA No. 543/04

Indore, this the 19<sup>th</sup> day of August, 2005.

CORAM

HON'BLE MR.M.P.SINGH, VICE CHAIRMAN  
HON'BLE MR.MADAN MOHAN, JUDICIAL MEMBER

Pyara  
S/o Hema  
Retired Gangman, Takhatpura  
Post: Ojed-Hamirgarh  
Distt. Bhilwara (Raj.)

Applicant

(By advocate None)

Versus

1. Union of India through  
General Manager  
Western Railway  
Churchgate, Mumbai.
2. The Divisional Railway Manager  
Western Railway  
Divisional Office  
Ratlam (MP)

Respondents.

(By advocate Shri Anand Pathak)

O R D E R

By Madan Mohan, Judicial Member

By filing this OA, the applicant has claimed the following reliefs:

- (i) Quash the order dated 6.4.2004.
- (ii) Direct the respondents to extend the benefit of pension and allied dues.
- (iii) Direct the respondents to take into account the earlier service of the applicant from 24.12.1962 to 9.12.70 for the purpose of pension.
- (iv) Direct the respondents to give all consequential benefits including arrears to the applicant.
- (v) Direct the respondents to allow interest on pensionary benefits.

2. The brief facts of the case are that the applicant retired from Railway Service as Gangman on 30.11.1991 but he was not granted pension and pensionary benefits as he had not put in 10 years' qualifying service. The applicant worked as Gangman from 24.12.1962 to 9.12.1970 but was

removed from service without following due procedure on 9.12.1970. The allegation was that he was convicted prior to joining the Railway service and served 15 days of imprisonment. On appeal he was set free. The applicant was later on taken on duty as a fresh candidate on 1.7.82 and he worked as such till his retirement on 30.11.1991. His past services from 24.12.1962 to 9.12.1970 were not taken into account for the purpose of calculation of pension. Hence this OA is filed.

3. None is present for the applicant. Hence the provisions of Rule 15 of CAT (Procedure) Rules 1987 are invoked.

4. Heard learned counsel for respondents who argued that the applicant was appointed as a Gangman on 3.1.1962 vide letter dated 17.12.1970 and was removed from service under the provisions of Disciplinary & Appeal Rules, 1968. He was again appointed vide letter dated 10.5.82 as Gangman. The second appointment was given as a fresh appointment and it has to be treated as such for all purposes and with a specific clause that he would have no claim for his past services. As the applicant had accepted the terms and conditions of the appointment, he is bound by his appointment order and its conditions. Once he has accepted the terms and conditions of the appointment order, there is no question of agitating the same after a lapse of 20-22 years.

5. After hearing learned counsel for respondents and carefully perusing the records, we find that the applicant was appointed as a temporary gangman vide letter dated 14.8.82 (Annexure R1/2, on a salary of Rs.200/- per month in grade of Rs.200-250 plus usual allowances as admissible

as per rules. His appointment was treated as fresh for all purposes and he will have no claim/benefit of his past services. The applicant had joined the services of the department accepting all the terms and conditions mentioned therein. Now he is claiming the benefit of past services rendered by him. In that case, he should not have accepted the terms and conditions mentioned in the aforesaid letter of appointment. We have perused para 4.3 of the OA in which the applicant has mentioned that 'on appeal under Rule 3 probation offender, he was set free under Rule 12'. This fact also shows that the applicant was not acquitted in his appeal filed against his conviction. Hence the contention of the applicant that the punishment/conviction was set aside in appeal is not correct according to his own version in para 4.3 of the OA.

6. Considering all facts and circumstances of the case, we are of the considered opinion that the action of the respondents is perfectly legal and justified. The OA has no merit and is dismissed. No costs.

(Madan Mohan)  
Judicial Member

(M.P.Singh)  
Vice Chairman

aa.

पूरांकन सं ओ/न्या.....जबलपुर, दि.....  
प तिलियि अच्ये दित्त:-

- (1) सचिव, उच्च न्यायालय बार एसोसिएशन, जबलपुर
- (2) आवेदक श्री/श्रीमती/कु.....के काउंसल
- (3) प्रत्यक्षी श्री/श्रीमती/कु.....के काउंसल
- (4) बांधपाल, के.प्र.अ., जबलपुर न्यायापीठ

सूचना एवं आवश्यक कार्यवाही हेतु  
24/8/05  
रजिस्ट्रार

A.M. Bhatt  
B.R. Ret. Kan  
Anand Pathak  
B.R. Bhatt

24/8/05