

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
CIRCUIT COURT SITTING AT BILASPUR

Original Application No 427 of 2003

Indore, this the 26th day of April, 2005.

Hon'ble Mr. M.P. Singh, Vice Chairman

Hon'ble Mr. Madan Mohan, Judicial Member

Het Ram, S/o Jeevan Ram,
Aged about 65 years, R/o Sahu Tent House,
G. Cabin, Charodha, District Bhilai.

Applicant

(By Advocate – Shri M.K. Verma)

V E R S U S

1. Union of India
Through the Chairman,
Railway Board,
New Delhi.

2. General Manager,
South Eastern Railway,
11, Garden Reach Road,
Calcutta.

3. Divisional Railway Manager,
South Eastern Railway,
Bilaspur.

Respondents

(By Advocate – Shri S.K. Jain)

O R D E R

By Madan Mohan, Judicial Member –

By filing this OA, the applicant has sought the following main reliefs :-

“8.1to direct the respondent Department to grant pension and leave encashment to the applicant in the interest of justice.

8.2 To direct the Respondents to pay the arrears of pension to the applicant with effect from 31.9.98 with an interest of 18% per annum.”



2. The brief facts of the case are that the applicant was initially appointed as casual labourer under the respondents department on 11.9.1961 and has worked as MIB/MIS South Eastern Railways till 1973 and thereafter he was again engaged and has worked till 31.3.1998 under the respondents as casual labourer. He was awarded temporary status on 6.10.1983. After granting the temporary status he was not regularized by the respondent department though his juniors were granted temporary status were regularized. The applicant superannuated from the services on 31.3.1998 after completion of 58 years and thereafter he was paid provident fund amount of Rs.37599/ from the department on 6.9.1998. He submitted various representations to the respondents requesting for payment of pension, but the respondents have not given the pensionary benefits to the applicant. Hence, this Original Application.

3. Heard the learned counsel for the parties and carefully perused the records.

4. The learned counsel for the applicant argued that the applicant was initially appointed as casual labourer under the respondents department on 11.9.1961 and has served till 1973. Thereafter again he was engaged and he had worked till 31.3.1998. He further argued that the applicant was awarded temporary status on 6.10.1983. After granting of the temporary status, the respondents have also issued passes and P.T.O to him. However, even after granting him temporary status, he was not regularized while his juniors were regularized. The learned counsel for the applicant has drawn our attention towards the decision of Ahmedabad Bench of this Tribunal in the case of **Mr. Mohanbhai Lakhbhai Vs. UOI & Anr.** in OA No.419/2000 decided on 31.7.2002 wherein all the aspects have been considered by the Tribunal. He further argued that the facts of the present OA are squarely covered by the aforesaid order of Tribunal in the case of **Mr. Mohanbhai (Supra)** in which the impugned orders were quashed and the



applicant in the said case was found entitled for all the pensionary benefits.

5. In reply the learned counsel for the respondents argued that the applicant had not worked continuously as alleged by him and the respondents have specifically mentioned the service rendered by the applicant in para 3 of their reply. The applicant got temporary status on 7.6.84 and not on 6.10.1983 as alleged by the applicant. He further argued that as per rules no pension is payable to a casual/temporary employee in the Railway. Hence, the applicant is not entitled for any pension after his superannuation and he was entitled for only DCRG, which was paid to him. As the applicant has not rendered required qualifying service. Hence, he is not entitled for any relief claimed by him.

6. After hearing the learned counsel for the parties and on careful perusal of the records, we find that the applicant has mainly stressed on the order of Ahmedabad Bench of this Tribunal passed in the case of Mr. Mohanbhai Lakhbhai (supra). We find that applicant before the Ahmedabad Bench of this Tribunal was appointed as casual employee on 7.11.1972 and was awarded the temporary status on 1.1.1980 and retired on superannuation on 30.9.1991. However, he was also denied the retiral benefits because of the reason that he was not regularly appointed in the Railways. We also find that in the said casd the Ahmedabad Bench of this Tribunal had considered various judgments of the Hon'ble Supreme Court, Hon'ble High Courts and also of the decisions of Madras and Ernakulam Bench of this Tribunal and thereafter following order has been passed in the said case :-

“28 We are of the considered opinion that the aforesaid judgment also covers the controversy relating to counting the full period of service of the applicant towards grant of pensionary benefit in addition to the other judgements quoted



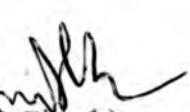
above and the claim of the applicant deserves to be accepted. In this view of the matter, we pass the order as under :

“ Viewing the matter from all its complexities and in view of our detailed discussion recorded above, the OA has much merit and the same is hereby allowed. The impugned order dated 14.9.98(A/2), rejection of the claim of applicant for grant of pension is hereby quashed. The applicant is entitled for all the pensionary benefits on the basis of full service rendered by him by treating him as permanent from three year after the date of his initial appointment. This order shall be complied with within a period of three months from the receipt of a copy of same failing which the respondents shall be liable to pay interest @ 9% PA on the due amount, after expiry of the period of three months. No order as to costs.”

7. We have given careful consideration to the rival contentions and the decision relied upon by the learned counsel for the applicant. We find that the present case is squarely covered by the decision of Ahmedabad Bench of this Tribunal in the case of Mr. Mohanbhai Lakhabhai(supra). We are, therefore, in respectful agreement with the aforesaid order passed by the Ahmedabad Bench of this Tribunal and therefore, this OA is liable to be allowed.

8. In the result, the OA is allowed. The respondents are directed to grant all the pensionary benefits to the applicant on the basis of full service rendered by the applicant by treating him as permanent from three years after the date of his initial appointment. This order shall be complied with within a period of three months from the ~~date of~~ receipt of a copy of same failing which the respondents shall be liable to pay interest @ 9% per annum on the due amount, after expiry of the period three months. No order as to costs.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman