

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 14th day of February, 2011

ORIGINAL APPLICATION NO. 110/2009

CORAM

HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER
HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

Asmatullah Khan son of Sadulla Khan aged about 57 years, working as Helper Khalasi Grade-I under IOW (Const.) Bhawani Mandi, West Central Railway, Kota. Resident of Bhawani Mandi, District Jhalawar (Rajasthan).

.....Applicant

► (By Advocate: Mr. Nand Kishore)

VERSUS

1. Union of India through General Manager, West Central Railways, Jabalpur.
2. Divisional Railway Manager, West Central Railway, Kota.
3. Dy. Chief Engineer (Construction), West Central Railway, Kota.

.....Respondents

(By Advocate: Mr. R.G. Gupta)

ORDER (ORAL)

The grievance of the applicant is regarding counting of his temporary service with effect from 18.09.1974 when he was granted temporary status while working under PWI Bhawani Mandi, Kota Division in open line. The case projected by the applicant is that he was engaged as casual labour on 26.04.1971 under PWI Bhawani Mandi where he worked upto 08.02.1980. It is further stated that thereafter the applicant was directed to work under Assistant Engineer (Construction), Bhawani Mandi on 09.02.1980 where he continued upto 31.05.1991 i.e. in Construction unit. It is further stated that the applicant again transferred from construction unit to open line on 01.06.1991 whereby he is continuing. It is pleaded that the applicant

was subsequently granted temporary status on 01.01.1985 by the Construction unit which was subsequently revised to 01.01.1984 as per the entry of second service book maintained by the respondents. As already stated above, the grievance of the applicant is that since he is continuously working with the department, may be in open line or in construction line and he was granted temporary status with effect from 18.09.1974, as such the entire period rendered by him in the capacity of temporary status with effect from 18.09.1974 should have been, for the purpose of counting of his service for pensionary benefits alongwith period of regularization with effect from 23.04.1997.

2. Notice of this application was given to the respondents. The facts, as stated above, have not been disputed by the respondents. However, the stand taken by the respondents is that the applicant was engaged afresh in the Construction unit with effect from 08.02.1980, as such the period prior to his working in the open line has not been counted for service alongwith period of regularization.

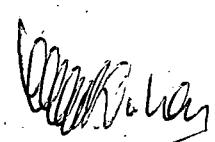
3. We have heard the learned counsel for the parties and have gone through the material placed on record. From the material placed on record, it is evident that the applicant, who was initially engaged in the open line and working under PWI, Bhawani Mandi, Kota with effect from 26.04.1971, was further directed to work under Assistant Engineer (Construction), Bhawani Mandi from 09.02.1980. According to the respondents, it was the fresh appointment of the applicant under Construction unit on 09.02.1980 after working in the open line upto 08.02.1980. Be that as it may, facts remains that the applicant is continuously working with the respondents' department without any

break. Not only that, he was also granted temporary status from 18.09.1974, as such, *prima facie*, we are of the view that the period during which the applicant had worked in the open line and was granted temporary status on 18.09.1974 could not have been ignored for the purpose of counting of service in terms of Pension Rules. Be that as it may, without going into merit of the case, we are of the view that the matter is required to be re-considered by the Divisional Railway Manager, West Central Railway, Kota [Respondent no. 2] in the light of the observations made above. Accordingly, Respondent no. 2 is directed to re-consider the matter and pass appropriate order within two months from the date of receipt of a copy of this order keeping in view the provisions of Rule 22 of Railway Service (Pension) Rules, 1993. In case the applicant is entitled to relief in that eventuality, follow up action shall be taken within a period of one month thereafter.

4. With these observations, the OA is disposed of with no order as to costs.



(ANIL KUMAR)
MEMBER (A)



(M.L. CHAUHAN)
MEMBER (J)