

**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No.3022/2016

Wednesday, this the 17th day of September 2018

Hon'ble Ms. Nita Chowdhury, Member (A)
Hon'ble Mr. S.N. Terdal, Member (J)

Gopal Kumar, aged 61 years,
S/o Sh. Shambhu Ram,
Retired as Cleark, from
North-Central Railway, Tundla,
R/o H.No.S-97, 3rd Floor, Flat No.A-7,
Katwariya Sarai, New Delhi-6

- Applicant

(Mr. Yogesh Sharma, Advocate)

Versus

1. Union of India through
the General Manager,
North-Central Railway,
Allahabad
2. The Divisional Railway Manager,
North-Central Railway, Allahabad Division,
Allahabad
3. The Senior Section Engineer (P.Way-2)
North Central Railway, Tundla (UP) - Respondents

(Mr. Shailendra Tiwary, Advocate)

O R D E R (ORAL)

Ms. Nita Chowdhury:

This Original Application (OA) has been filed by the applicant, seeking the following reliefs:-

- “(i) That this Hon'ble Tribunal may graciously be pleased to pass an order directing the respondents to count half casual service from 15.1.1975 to 21.6.1979 and entire service i.e. w.e.f. 22.6.1979 as a qualifying for granting retirement benefits.

- (ii) That the Hon'ble Tribunal may graciously be pleased to pass an order directing the department to count half casual service and entire temporary status service as a qualifying service for granting the benefits of ACP/MACP scheme and consequently, pass an order directing the department to grant 2 and 3rd financial upgradation to the applicant under ACP/MACP scheme in Grade Pay of Rs.2800/- (2nd upgradation under ACP scheme) and in Grade Pay of Rs.4200 (3rd upgradation under MACP scheme) from due date with all the consequential benefits including the re-fixation of pay, arrears of difference of pay and allowance with interest.
- (iii) That the Hon'ble Tribunal may graciously be pleased to pass an order directing the department (Railway Board) to amend all the Railway circulars regarding grant of financial upgradation under ACP/MACP scheme to the effect that counting of half casual service and entire temporary status service as a qualifying service for granting the benefits of MACP Scheme.
- (iv) Any other relief which the Hon'ble Tribunal deem fit and proper may also be granted to the applicants along with the costs of litigation."

2. When the matter is taken up for adjudication, learned counsel for the applicant states that the applicant is entitled to have counted the period in which he has served on casual basis from 15.01.1975 to 21.06.1979 and entire temporary status service w.e.f.22.06.1979 as a qualifying service for the purposes of retiral benefits. The matter has also been decided by the Hon'ble Apex Court in the case of **Union of India & Ors. v. Rakesh Kumar & Ors.** (Civil Appeal No. 3938/2017) decided on 24.03.2017 and after the decision of the Hon'ble Apex Court, he had given a legal notice vide Annexure A/1 in which he has

stated the full facts of his employment and requested the respondents to pass a detailed order on the same. But despite this legal notice, no action has been taken by the respondents.

3. The respondents, in their reply, state that they have taken action as per earlier Railway Board orders but nowhere have they stated as to why they have not complied with the order of the Hon'ble Apex Court passed in Rakesh Kumar's case (supra).

4. Quite clearly, this matter has been adjudicated by the Hon'ble Apex Court and accordingly, the respondents are duty bound to follow the said order. Hence, it is directed that the detailed legal notice at Annexure A/1 shall be disposed of within a period of 45 days by passing a detailed speaking order thereon, from the date of receipt of a copy of this order, in accordance with law. If as a consequence thereof, the applicant is entitled to other benefits, the same shall also be given to him.

5. With the above directions, the OA stands disposed of. No costs.

(S. N. Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

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