

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**PATNA BENCH, PATNA**  
**OA050/00409 of 2017**

Date of order 24.07.2018

**CORAM**

**HON'BLE MR. JAYESH V. BHAIKAVIA, MEMBER (J)**

Sushil Chandra Das, s/o Late J.C. Das, retired J.E. (Works), New Jalpaiguri under the D.R.M., N.E. Railway, Katihar, R/o C/O Sri Shambhu Malakar, Mirchhabari, P.O. & Distt. – Katihar, presently at 1<sup>st</sup> Floor, Hemoprova Apartment, 19/A, Nivedita Road, Ward No. 3 Siliguri.

..... Applicant.

**By advocate: Sri A.N. Jha.**

Verses

1. The Union of India through the General Manager, N.F. Railway, Maligon, Guwahati, Assam-781011.
2. The General Manager (Personnel), NN.F. Railway, Maligon, Guwahati, Assam-781011.
3. The Divisional Railway Manager, N.F. Railway, Katihar Division, Katihar-854105.
4. The Divisional Railway Manager (Personnel), N.F. Railway, Katihar Division, Katihar-854105.
5. The Senior Divisional Finance Manager, N.F. Railway, Katihar Division, Katihar-854105.

..... Respondents.

**By advocate: Sri Bindhyachal Rai.**

**O R D E R (ORAL)**

**Per Jayesh V Bhairavia /M (J):-** In the present OA, the applicant is seeking relief for a direction upon the respondent to calculate the correct qualifying service of the applicant and accordingly to pay the retiral benefits along with 12 % interest thereon.

2. It is the case of the applicant that he was initially engaged as casual Gangman on daily rate basis in the year 1973 and the respondent had granted him Temporary Status w.e.f. 03.05.1992.

The applicant was also granted promotion time to time and subsequently he retired on 30.06.2015 as Junior Engineer.

3. The respondent has calculated his total service as 28 years 5 months only. Accordingly, respondent had fixed his pension and issued his Pension Payment Order 26.06.2015 (Annexure-A/1). According to the applicant his total qualifying service ought to be assessed as 33 years instead of 28 years 5 months. The applicant has contended that along with him one co-worker namely Bhola Roy was also appointed on 02.05.1982 and he retired on 30.06.2014, however in the case of said Bhola Roy, the respondent has counted his qualifying service as 32 years and granted all DCRG benefits to him (Annexure-A/2). Therefore, in the case of applicant his qualifying service also required to be assessed as calculated in the case of said Bhola Roy.

4. The learned counsel for the applicant further submitted that the applicant had submitted his grievance before the D.R.M. N.F. Railway on 22.12.2015 and also submitted his grievance in Pension Adalat but till date he has not received any reply on it. Therefore, he has no other option to approach this Tribunal and file this OA and prayed for direction to correct assessment of his qualifying service.

5. In contra, the respondents have filed their WS and denied the contention of the applicant. L/c for the respondent would submit that as per provision stipulated in IREM (Vol.II), ITEM No. 2005 the casual labour shall be eligible to count only half of the service

rendered by him after attaining temporary status on completion of prescribed days of continuous employment and before regular absorption as qualifying service for the purpose of pensionary benefits. Accordingly, the qualifying service of the applicant was assessed/calculated.

6. The applicant was granted temporary status on 03.05.1982 and his date of appointment on screening was 06.08.1991, therefore, the applicant has rendered total 9 years, 3 months & 3 days service with TS status and 50% of such pension comes to 4 years 7 months & 17 days plus 23 years 10 months & 24 days, (the period i.e. 06.08.1991 to 30.06.2015), accordingly total qualifying service calculated as 28 years 4 months & 6 days. Based on this the respondents have paid all retiral benefits and also fixed his pension. The applicant is not entitled for relief as sought for.

7. Heard the parties and perused the records. In the present case, the applicant has mainly contended that identically situated one Bhola Roy who was appointed on the same day of 02.05.1982 along with the applicant who retired on 13.06.2014 and the respondents had assessed his qualifying service as 32 years and granted all the DCRG and pension whereas in the case of the applicant though he was appointed on 03.05.1982 and retired on 30.06.2015 his service was assessed only 28 years 4 months 6 days as qualifying service for the purpose of grant of pensionary benefits instead of 33 years. It is further case of the applicant that the respondents ought to have considered him as regular appointee of year 1982 and accordingly

ought to have calculated his qualifying service for the purpose of grant of pension. Therefore, he sought equal treatment from the respondent in respect to fixation of his pension.

8. It is noticed that the respondents have submitted details of service record of the applicant according to it the applicant rendered his service with temporary status for the period of 03.05.1982 to 06.08.1991, i.e. for 9 years 3 months, 3 days. According to the provision of para 2005 of IREM (vol.II) casual labour shall be eligible to count only half of the period rendered by them after attaining temporary status on completion of prescribed days of continuous employment and before regular absorption as qualifying service for the purpose of pensionary benefits. Accordingly, the 50 percent of such period admittedly comes to 4 years 7 months 17 days and thereafter the applicant was considered as successful screening on 06.08.1991 and from that date till his superannuated 30.06.2015, the respondents has considered the said period as 100 % service and total qualifying service calculated 28 Years 4 months 6 days. The said assessment of the respondent cannot be said to contrary to the provisions of IREM. The service of the co-worker i.e. Bhola Roy was found to be regularized in the year 1982 whereas in the case of applicant, the applicant remained with TS status for the period of 1982 to 1991 and only from 06.08.1991 his service was considered as 100% till his superannuated and, therefore, applicant cannot claim any parity with other co-employee.

9. In view of above discussions and the factual matrix, I do not find any material error committed by the respondent in calculating the qualifying service of the applicant for the purpose of grant of pensionary benefits vide their PPO order dated 25.06.2015. Accordingly, the OA is dismissed.

[ Jayesh V. Bhairavia ]M(J)

BP/