

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00580/17

Reserved on: 18.04.2018
Pronounced on: 27.04.2018

C O R A M

HON'BLE MRS BIDISHA BANERJEE, JUDICIAL MEMBER

Asha Devi, W/o Late Siya Ram Thakur, Son of Binda Thakur, resident of Village and P.O.- Patahi, District- Muzaffarpur, Bihar.

..... Applicant.

- By Advocate: - Mr. S.K. Pandey

-Versus-

1. The Union of India through the Chairman, Railway Board, New Delhi, Pin Code- 110001.
2. The General Manager, East Central Railway, Hazipur, Pin Code- 844101.
3. The Divisional Railway Manager, E.C. Railway, Sonepur, Pin Code- 841101.
4. The Divisional Railway Manager (Personnel), East Central Railway, Sonepur.

..... Respondents.

- By Advocate: - Mr. S.K. Raj

O R D E R

Bidisha Banerjee, J.M.:- The learned counsels were heard and the materials on record were perused.

2. The applicant in this OA has sought for the following reliefs:-

“(i) To count the service of the applicant from the period 1975 to 1988 and since the date of reinstatement 1994 onwards compulsory retirement in the year 2008.

(ii) To treat the period of 26 years 5 months and 4 days as net Qualifying Service.

(iii) To revise the pension and other admissible dues on the basis of total Qualifying Service as indicated above.

(iv) To make the payment of difference of pension amount and other admissible dues with statutory and penal interest whichever is applicable in the case of the applicant.”

3. Learned counsel for the applicant in course of the hearing would invite my attention to the written statement filed by the respondents disclosing the following facts:-

The applicant was appointed as Junior Clerk on 10.01.1975 under loyal quota. He was promoted as a Senior Clerk on 01.01.1984 and served as such. Due to unauthorized absence from 18.02.1988 to 05.12.1988 he was dismissed from service on 27.06.1989 but reinstated upon appeal, as Junior Clerk on 04.04.1994 vide order dated 23.03.1994. On 19.04.2007 he was punished with removal from service which was reduced to compulsory retirement by the Appellate Authority on 07.02.2008. He preferred OA 864 of 2012 which was disposed of on 15.07.2014 with the following order:-

“ 5.....There is no specific direction to treat the period of absence of the applicant as break in service. As such in my opinion, since the applicant was not exonerated in the disciplinary proceeding, the service of the applicant for the period from 1988 to 1994 should have been treated as ‘Dies Non’, not to count for qualifying service for pension and other benefits without break in service. The period from the date of his joining service in 1975 till 17.02.1988 and

then from the date of joining after reinstatement in 1994 should count towards qualifying service. Of course, if there was any other period of absence from service with or without intimation and for which he was not proceeded against departmentally and if the said period was not regularized as on leave due to the applicant or leave without pay on medical ground as per rules, then the said period may also be treated or deducted from qualifying service in accordance with the rules.

6. In view of the above observations, respondents are directed to recalculate the qualifying service of the applicant and decide the matter of granting pension and other retirement benefits to the applicant accordingly. The action in terms of this order be completed within a period of four months from the date of receipt/production of copy of this order.”

4. Despite specific directions supra, yet the respondents have counted his period of service qualifying towards pension as less years and deprived him of due pension.

5. Upon due consideration of the spells the applicant served under the respondents, I found the period 10.01.1975 to 26.06.1989, i.e. more than 14 years and 04.04.1994 when he was reinstated till 19.04.2007 when he was dismissed, i.e. almost 13 years as reckonable to pension which two spells totalled to about 27 years.

6. Therefore, in my considered opinion, the calculation on the part of the authorities as less than 27 years being erroneous, the matter is remanded back to the authorities to count the period reckonable for pension as detailed supra and pass appropriate order

for revising pension within two months of receipt of this order with arrears accruing from the date it fell due and interest @ 6% per annum on the same, since the error could not be attributed to the applicant. The OA accordingly stands disposed of. No order as to costs.

[Bidisha Banerjee]
Judicial Member

Srk.