

Open Court

Central Administrative Tribunal, Allahabad Bench,  
Allahabad

CCP No.330/00032/2019 in O.A. No. 399/2016

This the 27th day of February, 2019

**Hon'ble Mr. Justice Bharat Bhushan, Member (J)**

**Hon'ble Ms. Ajanta Dayalan, Member (A)**

Mata Prasad s/o Shri Shiv Balak, r/o Gram- Ameliya  
Post Bodosa, District- Chitrakoot Dham Karwi Posted as  
Safaiwala under CMS Railway Hospital, Jhansi.

Applicant

By Advocate: Sri S.M. Ali

Versus

Smt. Mudit Chandra Posted as Senior Divisional  
Personnel Officer, North Central Railway, Jhansi.

Respondents

By Advocate: None

### **ORDER**

**Hon'ble Mr. Justice Bharat Bhushan, Member (J)**

This Civil Misc. Contempt Application  
No.330/00032/2019 has been moved for alleged non-  
compliance of order dated 23.8.2018 passed by this  
Tribunal in Original Application No. 330/000399/2016.  
The O.A. was finally disposed of with certain directions.  
These directions are delineated as below:-

"7. In view of the aforesaid both the counsels have agreed that now this OA can be finally disposed off in terms of decision of Hon'ble Apex Court. It is seen that the claim of inclusion of 100% period for calculation of pensionary benefit of temporary status is not sustainable as Apex Court has held that the casual worker after obtaining the temporary is entitled to reckon 50% of his services till he regularized on regular/temporary post for the purposes of calculation of pension. Similarly the casual worker before obtaining the temporary status is also entitled to reckon the 50% for the casual services for the purpose of pension.

8. Accordingly, the OA is finally disposed off. The respondents are directed to take appropriate steps within a period of four months, in terms of aforesaid Judgment of Hon'ble Apex Court, from the date of receipt of a certified copy of this order. No costs."

2. Learned counsel for applicant has submitted that in compliance of the aforesaid order, final order dated 17.1.2019 has been passed by Sri Mudit Chandra, Senior Divisional Personnel Officer, Jhansi. Copy of which is available as Annexure No. A-3 to the contempt petition. The relevant portion of this order is reproduced as below:-

"vki dks bl l Ecd/k ea voxr dj;k;k tkrk gS fd ekuuh; mPpre U;k;ky; ds }kjk vius fu.kZ; fnukad 24-03-2017 ea fuf.kZ fd;k gS fd vkdfLed etnj ds }kjk dh xbZ l ok dh vof/k dk 50 ifr"kr Hkkx o ekfI d nj vkdfLed etnj dh gS l ; r l s dh xbZ l ok dk 50 ifr"kr Hkkx ml ds fu; fefrdj.k ds lk"pkr iS"kujh ykHk fn;s tkus ds mnns; l s vkgZ l ok ea tkMk tk; A ekuuh; mPpre U;k;ky; ds }kjk ikfjr mDr fu.kZ; ds vk/kkj ij jysos ckMZ ds }kjk vius i= fnukad 27-04-2017 ds ek/e l s ; g funZk tkjh fd;s x;s fd vkdfLed etnj ds fu; fefrdj.k ds mijkUr iS"kujh ykHk fn;s tkus ds mnns; l s vkgZ l ok dh x.kuk l s l Ecd/k foHkUu U;k;ky; ka ea yfEcr idj.k ekuuh; mPpre U;k;ky; ds }kjk ikfjr mDr fu.kZ; ds vk/kkj ij dUVLV fd;s tk; A

vki ds l ok fjdckMZ ea vki dh tUe frfFk 05-09-1985 vifdr gS rnkud kj vki dh l kEkkU; l ok fuofRr fnukad 30-09-2025 dks gkuh gS rr t e; vki dk iS"kujh ykHk fn;s tkus ds mnns; l s vkgZ l ok dh x.kuk ekuuh; mPpre U;k;ky; ds }kjk ikfjr fu.kZ; ds vk/kkj ij dh tkuh gS c"krZ fd ekuuh; mPp U;k;ky; ] ekuuh; mPpre U;k;ky; ea fopkj/khu l eku idkj ds vU; vnkYrh idj.k ka ea ikfjr fu.kZ; vFkok jysos ckMZ ds }kjk dkbZ vU; , l s funZk iklr u gk; tks fd mDr fu.kZ; fnukad 24-03-2017 ds foijhr gka"

3. Bare perusal of this order would indicate that Railway Department has conceded the claim of applicant but since the applicant would retire on 30.9.2025, the relevant pensionary benefits will be available to him subsequent to that date.

4. The argument of learned counsel for applicant that this is not a compliance for the reason that

applicant has still not been placed in old pension scheme is misconceived inasmuch as the Tribunal vide its judgment dated 23.8.2018 (supra) granted specific relief which has already been complied with. This Court cannot go beyond the relief granted in the O.A. No. 399/2016

5. In that judgment, no order was passed to place the applicant in old pension scheme. Contempt petition is not sustainable, therefore, dismissed in limine.

<b>(AJANTA DAYALAN)</b>	<b>(JUSTICE BHARAT BHUSHAN)</b>
<b>MEMBER (A)</b>	<b>MEMBER (J)</b>

HLS/-