

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH**

ORIGINAL APPLICATION NO.170/00060/2018

DATED THIS THE 22nd DAY OF MARCH, 2019

HON'BLE DR.K.B.SURESH, JUDICIAL MEMBER

HON'BLE SHRI C.V.SANKAR, ADMINISTRATIVE MEMBER

Annamalai aged about 61 years
(S/o Late Sri.Muniswamy)
Retd. Technician/SBC/SWR
R/o #114, 1st Cross
Kamala Nagar
Bangalore.

....Applicant

(By Advocate Sri C.C.Thomas)

Vs.

1. The General Manager
South Western Railway
Club Road, Keshwapur
P.O:Hubli-580 023.
2. The Chief Personnel Officer
O/o The General Manager, SW Rly
Gadag Road
P.O: Hubli-580 023.
3. Senior Divisional Personnel Officer
O/o The Divisional Railway Manager
Bangalore Division, South Western Railway
Bangalore-560 023.
4. Senior Section Engineer/W/A/O/SBC
O/o The Divisional Railway Manager
Bangalore Division, South Western Railway
Bangalore-560 023.

...Respondents

(By Advocate Sri N.Amaresh)

O R D E R

(PER HON'BLE SHRI C.V.SANKAR, MEMBER (ADMN)

The case of the applicant is that he joined the Railway service on 20.03.1980 as Technician Gr.I and was working as Mason under 4th respondent. He retired on

31.5.2016 on superannuation. Thus he served for more than 36 years. Though he is entitled to get the benefit of maximum qualifying service of 33 years for pensionary and retiral benefits such as DCRG, Leave Salary etc. the Railway administration has allowed only 24 years of service against 33 years of qualifying service which he is entitled to. The service certificate along with working sheet of terminal benefits allowed on retirement is enclosed at Annexure-A1. From the working sheet, it is seen that the qualifying service is calculated as 24 years whereas in the service certificate the period of service is shown from 20.03.1980 to 31.5.2016 which is more than 36 years. Thus he lost 9 years qualifying service for no reason which has resulted in propotionate diminution of DCRG. Thus it is evident that he is subjected to disentitlement of higher amount of DCRG on account of erroneous calculation of qualifying service. The applicant submitted representation on 29.7.2016(Annexure-A2) to the 3rd respondent but there was no response to the same. Aggrieved by the same, the applicant has filed the present OA seeking direction to the respondents to correct his qualifying service as 33 years and arrange to pay DCRG commensurating to 33 years of service against 24 years now granted and also to pay interest at the rate deemed reasonable by the Tribunal on delayed payment of arrears of DCRG from 1.6.2016 till the date of payment.

2. The respondents, on the other hand, submitted in their reply statement that the applicant is a retired employee who retired from service on 31.5.2016 as Technician Grade-I/Mason under Senior Section Engineer/Works/Office/Bangalore on attaining superannuation. After retirement, he was paid all due retirement benefits as per his qualifying service on the last working day and Pension Payment Order(PPO) to draw monthly pension was also issued to him.

3. The respondents submit that the applicant was appointed on 20.3.1983 on monthly rated casual labour on minimum pay of Rs.196/- but not as Technician Grade-I. Further his service counts for all purposes only on his empanelment for regular absorption after screening and medically certified fit (Annexures-R1 & R2). He was empanelled and absorbed w.e.f. 20.3.1999 vide office order dtd.6.4.1999 as Khalasi in scale of Rs.196-232 of 3rd CPC (Annexure-R3). On absorption of monthly rated labour in regular appointment, only half of the monthly rated service rendered will be counted along with regular service in accordance with Rule 31 of Railway Services (Pension) Rules, 1993(Annexure-A4). Even in accordance with the Railway Pension Rules, 1950, half of the service of casual labour who are granted monthly rate of pay will be taken towards qualifying service on their empanelment and absorption against the regular post as per Rule 407 and 409(ii) of Railway Pension Rules, 1950(Annexures-R5 & R6).

4. The respondents further submit that the applicant was under unauthorised absence for a period of 2 years 10 months and 1 day as per the absentee statement prepared at the time of processing his case for his retirement benefits(Annexure-R7). According to the statement(Annexure-R8) showing the qualifying and non-qualifying service, his total qualifying service is 23 years 10 months and 1 day and it is taken as 24 years as the service of 9 months and above will be taken as one year. Accordingly, they have rightly allowed the 24 years of qualifying service and retirement gratuity was calculated and paid. In the service certificate, only period of service has been shown i.e date of joining service to end of service. The 24 years of service has been arrived duly taking half of the monthly rated service and regular service duly deducting the period of unauthorised absence. Hence, the applicant's contention that he lost 9 years of service is not true

and there is no malafide, bias, discrimination much less violation of any rules/guidelines issued by the Railway department. Hence, the OA is liable to be dismissed.

5. We have heard the Learned Counsel for both the parties and perused the materials placed on record. The issue in this case is in a very small compass. As seen from Annexure-R2, the applicant was brought on a monthly rate of pay in the scale of Rs.196-232 on pay of Rs.196 per month w.e.f. 20.3.1980 as he had qualified himself for the monthly rate after having worked continuously for 120 days. Later on he was absorbed w.e.f. March 1999 as Khalasi in the scale of Rs.196-232 as shown at Annexure-R3. The respondents have rightly calculated 50% of the service in the temporary status and the balance from the date of his absorption in 1999 after deducting two years and 10 months due to his unauthorised absence, leave without pay etc. There is no merit in the OA. Dismissed. No costs.

(C.V.SANKAR)
MEMBER (A)

(DR.K.B.SURESH)
MEMBER (J)

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Annexures referred to by the applicant in OA.No.170/00060/2018

Annexure-A1: Copy of Service Certificate the applicant was issued with

Annexure-A2: Copy of the representation the applicant made to Sr.DPO/SBC

Annexures with reply statement:

Annexure-R1: Page 2 of applicant's service register

Annexure-R2: Page 3 of applicant's service register

Annexure-R3: Page 6 of applicant's service register

Annexure-R4: Railway Services (Pension) Rules-1993

Annexure-R5: Rule 407 of Railway Pension Rules, 1950

Annexure-R6: Rule 409(ii) of Railway Pension Rules, 1950

Annexure-R7: Copy of absentee statement

Annexure-R8: The statement showing the detail of non-qualifying service and qualifying service of the applicant
