

**SIN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

Original Application No. 20/527/2017

Date of Order: 01.02.2019

Between:

K. Ranga Babu, S/o. K.C. Rangaiah,
Aged about 51 years, Working as Trackman-III,
SSE/USFD/GTL, South Central Railway,
Guntakal Division, Guntakal, Ananthapur District.

... Applicant

And

1. Union of India, Rep. by the General Manager,
South Central Railway, Rail Nilayam,
Secunderabad – 500 071.
2. The Chief Personnel Officer,
South Central Railway, Rail Nilayam,
Secunderabad.
3. The Divisional Railway Manager,
South Central Railway,
Guntakal Division, Guntakal.
4. The Divisional Personnel Officer,
South Central Railway,
Guntakal Division, Guntakal,
Ananthapur District.

... Respondents

Counsel for the Applicant	...	Mrs. Rachna Kumari
Counsel for the Respondents	...	Mrs. Vijaya Sagi, SC for Rlys

CORAM:

Hon'ble Mr. B.V. Sudhakar* ... *Member (Admn.)

ORAL ORDER

{As per Hon'ble Mr. B.V. Sudhakar, Member (Admn.) }

2. The applicant through the present OA seeks counting of his services rendered as casual labourer and temporary service to be reckoned for determining pension and other terminal benefits.

3. Brief facts are that the applicant was appointed as Laskar in S.C.R Employees Mutually Aided Consumers Cooperative Stores Ltd on 1.12.1983. As per Railway Board order dt 10.2.2006, workers of quasi administrative offices were absorbed. Accordingly, the applicant was absorbed as Trackman and he joined the said post on 11.10.2006. The casual service rendered by the applicant for 22 years and 10 months has to be counted for purpose of qualifying service to the extent of 50% of the said service while computing pension and pensionary benefits.

4. The contentions of the applicant that a full bench of the Honourable High Court has dealt with the issue of casual labour/worker working for Indian Railways in W.P. No. 24867/1999 gave a favourable verdict. The applicant has also quoted the judgment of the Honourable High Court of Punjab and Haryana in Harbans Lal v State of Punjab wherein it was held that the New Pension Scheme is not applicable to those casual labourers who were regularised prior to introduction of the New Pension scheme. Honourable Supreme Court dismissed the review petition filed by the State of Punjab and Haryana in regard to the issue. As the issue has attained the finality the applicant is eligible to be granted the relief sought.

5. Respondents claim is that the applicant was engaged as a Salesman by the S.C.R. Mutually Aided Consumer Cooperative Stores and not by the respondents. The said Society is a quasi-administrative organisation and based on Railway Board order dt 10.2.2006 he was absorbed in the railways. Only if a person is engaged as a casual labour in the Railways then the relief sought as per the judgments cited can be considered. However, applicant was not engaged by the railways as a casual labourer and thus has no basis to claim the relief sought.

6. Heard the learned counsel. Smt. Rachna Kumar, learned counsel appeared for the applicant and Smt. Vijaya Sagi, learned Standing Counsel for the respondents. The learned respondent counsel submitted that the present case is a covered case which has been dealt by this Tribunal in OA 526 of 2017 dt 4.1.2019.

7(I) The applicant not being engaged by the respondents does not have a right to claim benefits sought. The Mutually Aided Consumers Cooperative Stores was run by a committee and has no link with the respondents organisation excepting for granting of certain concessions to the employees of the society as a good will gesture. Claiming relief on par with those engaged by the respondents is thus not an acceptable preposition. The operative portion of the said judgment is extracted hereunder:

“Learned counsel for the applicant has heavily banked on the judgment of the Hon’ble High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh in WP No. 25260/2002, dt. 18.09.2015, wherein it was concluded to consider as under:

“35. On the above analysis, this court is of the opinion that a casual labour/ worker working in the service of the Indian Railways appointed subsequently as a temporary servant and rendered temporary service continuously, followed by grant of permanent status, without any interruption in the temporary service and between the temporary and permanent service is entitled to compute the entire temporary service also as qualifying service and in addition, he is also entitled to compute 50% of the casual service rendered prior to assignment of temporary status for determination of pension/ family pension and retirement/ death benefits.”

The point in question is as to whether the applicant could be considered as having worked under the Railways or under a different organization altogether. The records placed before this Tribunal indicate that the applicant was engaged as a mechanic in the Cooperative Stores. Learned counsel for the applicant has submitted Serial Circular No. 213/73 dated 30.10.1973 wherein it is stated that staff of quasi-administrative officers or organizations such as Railway Consumer Cooperative Societies, Canteens and Institutes, etc. should be given relaxation in age limit to the extent of 5 years or service rendered in such organisations, whichever is less for absorption in Class-IV categories and appearing before Railway Service Commissions for selection to Class III categories. The applicant has also submitted a railway pass and quoted sub-section 9 of Medical Attendance and Treatment Rules to support his plea. The applicant has also

relied on Rule 25 of Railway Employees Qualifying Service Rules which states as under:

“25. Counting of service rendered under Private Railway companies and quasi-railway bodies: (1) The previous service of employees of the former private or former railway companies and quasi-railway bodies who were absorbed in or appointed as fresh entrants in the Indian Railways shall be taken into account for pensionary benefits under these rules, if countable as under, for the purpose of special contribution to Provident Fund.”

A close analysis of each of the points made by the learned counsel for the applicant would enable this Tribunal to come to a fair conclusion on the issue. To begin with, the applicant has relied on Rule 25 of Qualifying Service Rules wherein it is clearly stated that the employees of quasi railway bodies are entitled for the benefit of being absorbed or appointed in Indian Railways. Mutually Aided Cooperative Societies Stores Ltd has not been termed as a quasi-railway body. There is no record substantiating the same. The issue of pass or medical facilities are generally extended to employees working in allied institutions of the Railways as a gesture of welfare. It needs to be looked from this perspective. There is no rule which says that if somebody were to be extended a railway pass or granted medical benefit, then it would mean that he shall be considered as a Railway employee. Railway passes are granted to freedom fighters, persons excelling in sports, etc. It does not mean that they are to be considered as railway employees. Moreover, the employees of the Societies were not appointed by the respondents. Society is also not funded by the respondents. As the said Society was neither funded nor does it come under the direct administrative control of the respondents, the applicant cannot claim to be a railway employee. Learned counsel for the applicant did submit the verdicts of Hon'ble Ernakulam and Bangalore Benches of this Tribunal in support of the claim of the applicant. However, those judgments are not relevant to the present case since the question is as to whether the applicant himself is an employee of the railways or not. Once this is decided, then the question of treating the past service would be examined. In this regard, the Hon'ble Supreme Court has categorically observed in ***Union of India (Railway Board) & Others Vs. J.V. Subbaiah & Others***, reported in **1996 (2) SCC 258** in para 22 as under:

“22. We, therefore, have no hesitation to hold that the officers, employees and servants appointed by the Railway Cooperative Stores/ Societies cannot be treated on a par with Railway Servants under paragraph 10-B of the Railway Establishment Code nor can they be given parity of status, promotions, scales of pay, increments etc. as ordered by the CAT, Hyderabad Bench.”

Besides, the judgment of the Hon'ble High Court of Andhra Pradesh *supra* is not relevant to the present case, since the applicant is not on the rolls of the Railways to make the claim in question. Thus, as seen from the Rules and also facts, the applicant cannot come under the ambit of being called as a Railway employee. Therefore, the question of considering the casual labour/ temporary status rendered by him while working in the Cooperative Stores for the purpose of pension and pensionary benefits would not arise in view of the observations of

the Hon'ble Supreme Court cited supra. Hence, we do not find any ground to interfere on behalf of the applicant. Therefore, the OA is dismissed.”

(II) Thus the relief sought by the applicant is against the Honourable Supreme Court observation in the above cited judgment. Even on merits there is no scope to consider the relief sought. As the case is fully covered, on similar grounds the OA is dismissed with no order to costs.

(B.V. SUDHAKAR)
MEMBER (ADMN.)

Dated, the 1st day of February, 2019

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