

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

Original Application No. 954/2017

Date of C.A.V. : 23.07.2018

Date of Order: 26.10.2018

Between :

Hemili Bai, W/o Rawojee Kheemia,
Aged about 70 years, Occ : House hold,
Tukaram Nayak Station Tanda,
Chittapur, Gulburga Dist.,
Karnataka State.

... Applicant

And

1. Union of India,
Represented by General Manager,
South Central Railway, Rail Nilayam,
Secunderabad.

2. The Chief Personnel Officer,
South Central Railway, Rail Nilayam,
Secunderabad.

3. The Senior Divisional Personnel Officer,
South Central Railway, Secunderabad Division,
Sanchalan Bhavan, Secunderabad.

... Respondents

Counsel for the Applicant	...	Mr.M.C.Jacob, Advocate
Counsel for the Respondents	...	Mrs.Vijaya Sagi, S.C. For Rlys.

CORAM:

Hon'ble Mr.Justice R.Kantha Rao ... Member (Judl.)

ORDER

{ As per Hon'ble Mr.Justice R.Kantha Rao, Member (Judl.) }

The husband of the applicant (hereinafter referred to as the deceased employee) joined in 3rd respondent division of Railways as Casual Labour Gang Man on 22.05.1978 and worked under the Permanent Way Inspector, Vikarabad. He was granted temporary status designated as Casual Monthly Rated (CMR) labour w.e.f. 22.09.1978 as per the casual labour scheme of the Railways with regular pay scale of Rs.200-250. His services were regularized w.e.f. 01.10.1983. The date of birth entered in the service register of the employee is 09.11.1932, but subsequently it was altered by the Permanent Way Inspector to 22.05.1948 along with other Gangmen joined with him. Therefore the date of birth for his retirement from service was taken as 30.11.1990 and his service beyond the said period is not considered as qualifying service for the purpose of calculating the pension. Challenging the said alteration of date of birth the deceased employee filed OA.1555/2000 before the Tribunal and the same was dismissed. Being aggrieved, he filed W.P.No.26774/2001 before the Hon'ble High Court and the same was also dismissed. The applicant was informed that he is not entitled for any pension as his entire qualifying service is 9 years 7 months and 16 days whereas minimum service required for calculating the pension as per Railway Services (Pension) Rules, 1993 is 10 years. After the death of her husband, the applicant filed the present OA seeking a direction to the respondents to compute 50% of casual labour service from 22.05.1978 onwards till the regularization from 01.10.1983 along with regular service till retirement on 30.11.1990 as qualifying

service and grant pension from the date of retirement.

2. The claim of the applicant was opposed by the respondents contending that since the applicant's husband did not have 10 years qualifying service, he is not eligible for pension.

3. Heard Mr.M.C.Jacob, learned counsel for the applicant and Mrs.Vijaya Sagi, learned standing counsel for the respondents.

4. The short question requires consideration in the present OA is as to whether the applicant is entitled for the grant of pension as prayed for.

5. Reliance is placed by the learned counsel for the applicant on ***Union of India Vs. Rakesh Kumar & Ors in C.A.No.3939/2017***. In the said judgement the Hon'ble Supreme Court took the view that 50% of the casual labour service of the employee as well as 50% of the service after obtaining temporary status has to be reckoned along with the regular service for the purpose of calculating the pension. The applicant also relied on Sub Rule (3) of Rule 69 of Railway Services (Pension) Rules, 1993 for the purpose of calculating the length of qualifying service according to which fraction of a year equal to three months and above shall be treated as a completed one half year and reckoned as qualifying service.

6. In the instant case the applicant joined as a casual labour on

22.05.1978. He was granted temporary status on 22.09.1978. He was regularized on 01.10.1983 and retired on 30.11.1990. The total service of the applicant thus computed is 9 years 10 months and 4 days and his qualifying service would be 10 years and is eligible for pension as per Railway Services (Pension) Rules, 1993. The rejection of pension to the deceased employee therefore is contrary to the judgement of the Hon'ble Supreme Court (supra).

7. The respondents are therefore directed to grant pension and other benefits to the applicant considering that the deceased employee had completed 10 years qualifying service and pay the applicant from the date of retirement of the deceased employee within a period of eight weeks from the date of receipt of a copy of this order.

8. The OA is allowed accordingly. There shall be no order as to costs.

(JUSTICE R.KANTHA RAO)
MEMBER (JUDL.)

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