

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

**OA./21/60/2019
Dated: 22/04/2019**

BETWEEN:

D. Balaiah, S/o. Chennaiah,
Aged about 61 years,
Occ: Sr. Gangman (Retd.),
O/o. Sr. Divisional Engineer (Co-ordination),
South Central Railway,
Secunderabad Division,
R/o. 3-117/1, Near Chaitanya High School,
Kummariwada Post, Bibi Nagar Mandal,
Yadadri Bhongir Dist.,

..... Applicant

AND

1. Union of India rep. by
The General Manager,
South Central Railways,
Rail Nilayam, Secunderabad.
2. The Sr. Divisional Personnel Officer,
South Central Railway,
Secunderabad Division,
Secunderabad.
3. The FA & CAO, South Central Railway,
Rail Nilayam, Secunderabad.

..... Respondents

Counsel for the Applicant : Mr. K. Siva Reddy, Advocate
Counsel for the Respondents : Mr. V.V.N. Narasimham, SC for Rlys

CORAM

Hon'ble Mr. V. Ajay Kumar, Judl. Member

ORAL ORDER
{Per Hon'ble Mr. V. Ajay Kumar, Judl. Member}

Heard Mr. K. Siva Reddy, learned counsel for the applicant and Mr. Bheem Singh representing Mr. V.V.N. Narasimham, learned Standing Counsel for the Respondents.

2. In spite of availing sufficient time, the respondents have not chosen to file reply till date.

3. The applicant who has retired as Sr. Gangman from the South Central Railway, filed the OA seeking the following relief:-

“In view of the facts mentioned above, the applicant prays that this Hon'ble Tribunal may be pleased.

i) to declare that the action of the respondents in non implementation of the decision of Apex Court in Union of India others Vs. Rakesh Kumar in Civil Appeal No.3938/2017 dt.24.3.2017 and non taking of 50% of Casual service and correct date of regularization for counting qualifying service for terminal benefits is arbitrary and contrary to the Articles 14 and 21 of the Constitution of India and violative of principles of natural justice,

ii) Consequently direct the respondents to settle the terminal benefits to the applicants after taking 50% of Casual labour service before granting temporary status with all consequential benefits such as MACP, Gratuity etc., with interest and

iii) to pass such orders as this Hon'ble Court deems fit and proper in the circumstances of the case.”

4. The short issue involved in the instant OA is that counting of casual service rendered by the applicant before his services were regularised, for

the purpose of calculating the retirement benefits as per the judgment of the Hon'ble Apex Court in Union of India others Vs. Rakesh Kumar in Civil Appeal No.3938/2017 dt.24.3.2017{2018 SCC(L&S)51} and also the order of this Tribunal in OA.887/2018 dated 05.02.2019 in Narsi Reddy Vs. Union of India and others.

3. Though the applicant's counsel submitted that the applicant has made a representation to the respondents seeking the relief claimed in the OA, however, no such representation is filed along with the OA.

4. It is not in dispute that the matter of counting of casual service before the date of regularization of the employee has already attained finality in Union of India others Vs. Rakesh Kumar in Civil Appeal No.3938/2017 dt.24.3.2017(supra), and binding on all the Courts and all the authorities.

5. In these circumstances, the OA is disposed of without going into the merits of the case, by permitting the applicant to make a representation to the respondents ventilating his grievances within two weeks from the date of receipt of a copy of this order and on receipt of such a representation, the respondents shall consider the said representation keeping in view the judgement of the Hon'ble Apex Court in Union of India others Vs. Rakesh Kumar in Civil Appeal No.3938/2017 dt.24.3.2017(supra) and also the judgement of this Tribunal in Narsi Reddy Vs. Union of India and others in OA.887/2018 dated 05.02.2019 and pass appropriate speaking and

reasoned order in accordance with law, within 90 days therefrom. The Respondents shall also release the consequential benefits, within a reasonable period therefrom, if they found that the applicant is entitled for the benefit of the above referred judgements. No order as to costs.

(V.AJAY KUMAR)
JUDL. MEMBER

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