

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

OA No. 53/2019

New Delhi this the 25th September, 2019

Hon'ble Sh. Pradeep Kumar, Member (A)

Sh. Ved Prakash, aged 67 years, 'C'
S/o Sh. Dharma,
Retired as Tech-III, from SSE/C&W,
Northern Railway Station, hazarat Nizamuddin..
r/o Chauhan Patti, 50 Futa Road, near Sunday
Bazar, Nasib Vihar, Loni, Distt. Ghaziabad (UP).

.....Applicant

(By Advocate: Sh. Yogesh Sharma)

Versus

1. Union of India through the General Manager
Northern Railway, Baroda House, New Delhi.
2. The Divisional Railway Manager,
Northern Railway, Delhi Division,
State Entry Road, New Delhi.
3. The Senior Section Engineer (C&W),
Northern Railway, Delhi Division,
Hazarrat Nizamuddin, Delhi.

.....Respondents

(By Advocate : Sh. Krishna Kant Sharma with
Sh. Gulsun Singh)

ORDER (ORAL)

1.0 The applicant herein had served the respondents Railway and has since retired on 31.08.2014. The retiral benefits were not granted to him. Feeling aggrieved, he approached the Tribunal by filing OA No. 2911/2017, which was decided on 25.08.2017 with the following directions:-

“4. In the above circumstances, without going into the merits of the case, the OA is disposed of at the admission stage itself, with a direction to the respondents to reply to the legal notice dated 16.06.2017, within a period of 30 days from the date of receipt of a certified copy of this order. If the respondents find the claim of the applicant correct, then they shall pay the revised amount, if any, with interest for the delayed period at the present rate of GPF interest, within a further period of 90 days. Accordingly, the OA stands disposed of. No order as to costs.”

2.0 In compliance, the respondents have now passed an order dated 22.12.2017 and advised the applicant, duly annexing therein a common order which appears to have been passed in several similar cases. The applicant has been granted pension but the medical facilities and the complimentary passes as are admissible to the retired employees, have not been granted.

3.0 Feeling aggrieved, instant OA has been filed.

4.0 The applicant pleads that he had worked as a casual labour on the respondent Railway during the period from 28.03.1976 to 30.08.1979 under IOW and thereafter for the period from 26.04.1988 to 31.07.1990 as a water man under station superintendent and thereafter w.e.f. 04.06.1994 till his date of retirement which took place on 31.08.2014. During this spell, the applicant pleads that he was screened and confirmed as a regular employee on 15.03.1995.

5.0 The applicant drew the attention to a judgement by the Hon'ble Apex Court in Rakesh Kumar which was delivered on 24.03.2017 (2017 (3) SLR 589 (SC), Civil Appeal No. 3938/2017 arising out of SLP (C) No. 23723 of 2015, wherein certain parameters were given to assess the qualifying service in respect of those who had worked as casual labour and were granted temporary status and thereafter who gained regular status. The parameters set forth by the Apex Court read as under:-

55. In view of foregoing discussion, we hold :

- i) the casual worker after obtaining temporary status is entitled to reckon 50% of his services till he is regularise on a regular/temporary

- post for the purposes of calculation of pension.
- ii) the casual worker before obtaining the temporary status is also entitled to reckon 50% of casual service for purposes of pension.
 - iii) Those casual workers who are appointed to any post either substantively or in officiating or in temporary capacity are entitled to reckon the entire period from date of taking charge to such post as per Rule 20 of Rules, 1993.
 - iv) It is open to Pension Sanctioning Authority to recommend for relaxation in deserving case to the Railway Board for dispensing with or relaxing requirement of any rule with regard to those casual workers who have been subsequently absorbed against the post and do not fulfill the requirement of existing rule for grant of pension, in deserving cases. On a request made in writing, the Pension Sanctioning Authority shall consider as to whether any particular case deserves to be considered for recommendation for relaxation under Rule 107 of Rules, 1993."

6.0 The applicant pleads that these guidelines have not been followed in his case while working out the qualifying service. It is further pleaded that if these guidelines are applied, his qualifying service will be even more than 20 years and he will be eligible to get the medical facilities as well as complimentary passes etc.

Even otherwise, his qualifying service is shown as 20 years as per the PPO No. 0114022184. Specific averment has also been made to this effect in Para 4.11 of OA. Yet he is being denied the medical facilities and complimentary passes.

7.0 The respondents plead that the applicant had served as casual labour in certain broken spells. While the exact dates given by the respondents and the applicant are at little variance, but the period of working is more or less testified by the respondents in their counter reply.

8.0 The respondents plead that in terms of Railway Board circular dated 21.02.1980, if the period of dis-engagement between two casual assignments exceeds three years, those casual labours period cannot be taken into account. It was further pleaded that whatever has been due, has been paid.

9.0 Matter has been heard at length.

10.0 Learned counsel Sh. Yogesh Sharma represented the applicant. Learned counsel Sh. Krishna Kant Sharma represented the respondents.

11.0 It is seen from the impugned order dated 22.12.2017 that a common order has been passed and annexed in the communication given to the applicant. Specific details of working in respect of applicant are not quoted in the said order. With respect to working out the qualifying service, it is the specific details of each employee that are required to be taken into account. The order passed is thus deficient and liable to be quashed.

12.0 The contention put forth by the respondents, that they do not have the service record, is not acceptable as in the counter reply, certain dates have been given in respect working of the applicant. These dates more or less match with the contention of the applicant. Qualifying service needs to be worked out on the basis of details as are available.

13.0 In view of forgoing, the impugned order dated 22.12.2017, as passed by the respondents, is deficient and the same stands quashed. The respondents are directed to pass a reasoned and speaking order giving therein the dates of working of the applicant and giving due weightage to various periods, as directed by the Hon'ble Apex Court in

the matter of Rakesh Kumar (supra) to work out the qualifying service.

14.0 This exercise be completed within a period of one month and due benefits, if any, shall also be released within a further period of one month under advice to the applicant. The applicant shall have liberty to approach the Tribunal in case some grievance still subsists. The instant OA is disposed of. No order as to costs.

(Pradeep Kumar)
Member (A)

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