

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Dated the Monday 28th day of January Two Thousand And Ninteen

PRESENT:

THE HON'BLE MR. R. RAMANUJAM, MEMBER (A)

THE HON'BLE MR. P.MADHAVAN, MEMBER (J)

M.A.310/00046/2019

In

M.A. 310/000127/2018 in & OA.310/01548/2015

&

O.A. 1548 of 2015

C. Swaminathan,
S/o. Chinna Kattayan
No.6 A, Raja Gopalnagar,
Chandaimeadu, Vandavasi Road,
Tindivanam.

....Applicant in both MAs and OA

(By Advocate: M/s. E. Felixparthiban)

Versus

1. The General Manager,
Southern Railway, Chennai-3;
2. The Union of India,
Rep. by Senior Divisional Personnel Officer,
Southern Railway,
Trichy.
3. The Managing Director,
Southern Railway Employees Cooperative Credit Society Ltd.,
Dindigul Road,
Trichy.

...Respondents in both MAs and OA

(By Advocate: Mr. D. Hariprasad
M/s.T.S. Gopalan & Co.)

ORAL ORDER

(Pronounced by Hon'ble Mr. R. Ramanujam, Member (A))

Heard. M.A.46/2019 seeking restoration of OA and MA 127/2018 dismissed in default by order dated 22.10.2018 is allowed. OA & MA are restored.

2. The applicant has filed this OA seeking following relief:-

“to direct the respondent to pay gratuity, P.F. and other benefits dues to the applicant here in E.L.R. (L.T.No. 62 and P.F. No.340403).”

3. The case of the applicant is that he joined services of the 2nd Respondent on 10.3.1976 and worked as ELR (L.T. No. 62 and PF No. 340403) at Viruthachalam. He was given a scale and worked as 5th Gangman at Vandaloor, (PW1,KJPD/SA) again as Trolleyman and Carpenter helper and Carpenter Labour, KJPD at permanent way inspecting office 20.4.1984. He was promoted as Skilled Carpenter at IOW/A/GOC and he was further promoted to Gr.II and then Gr.I. While so, he was disturbed both mentally and physically and was unable to attend duty. Therefore, he submitted his resignation to the Chief Personnel Officer, Central Station, Chennai on 23.2.1998.

4. The applicant made a representation dated 5.6.2014 to the respondents for payment of terminal benefits as he had served for nearly 22 years prior to his resignation. Even though the applicant had resigned for personal reasons, he must be held to be entitled to all terminal benefits in accordance with law, it is urged.

5. The respondents contested the case initially stating that the claim of the applicant to have been in the services of the respondents could not be verified. Records had been weeded out as per the approved retention schedule for various categories. However, in their reply to the rejoinder, it is contended that the applicant had not been treated as one who resigned in 1998 but had actually been removed from service with effect from 30.06.2001 for unduly long absence after appropriate disciplinary proceedings. As the applicant was removed from service, he could not be granted any terminal benefits in terms of the relevant rules, it is contended. The applicant's claim could not be processed for want of records which could not be traced even after best efforts. Accordingly, it was not possible to ascertain the length of service etc put in by the applicant and no claim could be paid after a lapse of more than 16 years, it is submitted.

6. We have considered the matter. It appears that the applicant has failed to cogently explain the inaction on his part since the alleged date of resignation on 23.2.1998 till 2014 when he made a representation for terminal benefits. On the other hand, that the applicant had been removed from service with effect from 30.06.2001 for long absence as per DEN/GOC @TPJ penalty Advice N. TW. 571/DAR/C.S. dated 21.06.2001 as evident from Annexure R1 reply to the rejoinder filed by the applicant. Since the respondents have been able to trace the order of penalty, clearly the applicant was an employee with the respondents and, therefore, it was for the competent authority to consider whether the applicant could be granted any ex-gratia in lieu of pension as prescribed under the relevant rules.

7. Due to the delay entirely attributable to the applicant, the relevant records relating to whether the applicant made a request for compassionate allowance and if so, with what result are said to be now unavailable. We are accordingly inclined to dispose of this OA with the observation that it is entirely for the competent authority to consider whether the applicant could be granted for compassionate allowance or 2/3rd of gratuity in the circumstances of his removal from service, subject to the relevant records/proceedings being traced out. The respondents may accordingly consider the matter and pass appropriate orders within a period of four months from the date of receipt of copy of this order.

8. The OA is disposed of with no costs. M.A 127/2018 seeking condonation of delay stands disposed of in the light of this order.

(P. MADHAVAN)
MEMBER (J)

(R. RAMANUJAM)
MEMBER (A)

28.1.2019

Asvs.