

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Applicaton No.180/00536/2018

Tuesday this the 30th day of July 2019

C O R A M :

HON'BLE Mr.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER

A.Manikandan Chettiar,
SCP, Traffic Department (Rtd.),
Vakakkevila Akkaravila Nagar,
Quilon – 691 010.

...Applicant

(By Advocate Mr.Siby.J.Monippally)

v e r s u s

1. Union of India represented by General Manager,
Southern Railway, Park Town, Chennai.

2. The Senior Divisional Personnel Officer,
Southern Railway, Trivandrum Division,
Trivandrum.

...Respondents

(By Advocate Mr.Mathews.K.G.)

This application having been heard on 24th July 2019, this Tribunal on 30th July 2019 delivered the following :

ORDER

The applicant in this O.A seeks reckoning of his entire service as Commission Bearer and Salaried Commission Bearer for the purpose of service benefits. He claims to have entered into service of the railways as Commission Bearer on 24.6.1977 and was regularized in 1989. He superannuated from service on 30.5.2018. He seeks 100% of the period of his engagement as Commission Bearer to be reckoned along with length of regular service for all service benefits including pensionary benefits.

2. This matter is squarely covered by the orders of this Tribunal. Learned counsel for the applicant referred to a common order dated 4.6.2014 passed by this Tribunal in O.A No.417/2013 and connected cases. In that case the question considered by this Tribunal was whether the applicants are entitled to count 50% of their service as Commission Bearers/Vendors from the date of their initial engagement till their regular absorption in service for the purpose of calculation of pension and gratuity. This Tribunal issued a direction to the Railway Administration to count half the service rendered by the applicants in the above case as Commission/Salaried Bearer before their regular absorption for the purpose of pension and other terminal benefits on the analogy of the provisions contained in Indian Railway Establishment Code that half the service rendered by the casual labourers who have joined on temporary status till regular absorption on the post are entitled to count for pensionary purposes. In the aforesaid order in O.A 417/2013 and connected cases this Tribunal relied on the decisions of this Tribunal in O.A 440/2003, 311/2010 and a decision of the Madras Bench of this Tribunal in O.A 360/2011. In all the above cases the orders passed by this Tribunal were not interfered with when those orders were challenged before the High Courts concerned.

3. The respondents have filed reply statement wherein they have disputed certain parts of the service claimed by the applicant. For example, they contest that the applicant did not retire on 30.5.2018. In fact the

applicant was terminated from service on 10.5.2018 by way of imposing the penalty of compulsory retirement for his misconduct. Besides, it is held out that the respondents do not have in their possession the details of his service and the applicant has failed to produce the connected records to prove the nature and length of his service.

4. In view of the decision of this Tribunal in O.A.No.417/2013 and connected cases, this Tribunal is of the view that the applicant in the present case is to be given the benefits of that order as his case is also similar in nature. The respondents are directed to extend similar benefits to the applicant in this case as well. It is made clear that the respondents shall, in terms of this order, refix the pay and other service benefits including MACP and arrears etc. thereto and the same shall be reckoned for the purpose of calculating the pension and pensionary benefits also. Appropriate orders in this regard shall be issued by the railway authorities within a period of three months from the date of receipt of a copy of this order.

5. However, it is made clear that, for the above purpose, the requisite proof of the period of engagement of the applicant as Commission Bearer/Vendor shall be produced by the applicant before the respondents within a period of one month from the date of receipt of a copy of this order. Ordered accordingly.

6. The O.A is allowed in part. There shall be no order as to costs.

(Dated this the 30th day of July 2019)

E.K.BHARAT BHUSHAN
ADMINISTRATIVE MEMBER

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List of Annexures in O.A.No.180/00536/2018

- 1. Annexure A-1** – A copy of the order dated 7.1.1992 issued by Southern Railway.
 - 2. Annexure R-1** – A copy of the proforma agreement executed by the Commission Bearers.
 - 3. Annexure R-2** – A copy of the orders of Hon'ble Supreme Court in WP No.191/86.
 - 4. Annexure R-3** – A copy of the judgment of Hon'ble Supreme court in K.V.Baby's case reported in (1998) 9 SCC 252.
 - 5. Annexure R-4** – A copy of the Order No.2003/TG-III/639/13/SR passed by the Chairman/Railway Board.
 - 6. Annexure R-5** – A copy of the Rules 14(xiv) 24 and 31 of the Railway Services (Pension) Rules, 1993.
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