

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN
&
THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

MONDAY, THE 19TH DAY OF OCTOBER 2015/27TH ASWINA, 1937

OP (CAT).No. 166 of 2015 (Z)

AGAINST THE ORDER IN OA 109/2013 of CENTRAL ADMINISTRATIVE
TRIBUNAL,ERNAKULAM BENCH DATED 28-10-2014

PETITIONERS/RESPONDENTS IN THE O.A.:

1. DIVISIONAL PERSONNEL OFFICER
SOUTHERN RAILWAY, TRIVANDRUM DIVISION, TRIVANDRUM -695 014.
2. GENERAL MANAGER
SOUTHERN RAILWAY, PARK TOWN P.O, CHENNAI - 600 003.
3. UNION OF INDIA
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF INDIA,
MINISTRY OF RAILWAYS, RAIL BHAVAN, NEW DELHI -110 001.

BY ADV. SRI.V.K.MOHAMMED YOUSUF,SC,RAILWAYS

RESPONDENT/APPLICANT IN THE O.A.:

P.R.DIVAKARAN, S/O.AYYAPPAN
RETIRED GANGMATE, SOUTHERN RAILWAY, RESIDING AT:
PALLATHUKUZH, ERUMBAYAM P.O, THALAYOLAPARAMBU,
PIN - 686 605.

THIS OP (CAT) HAVING COME UP FOR ADMISSION ON 19-10-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP (CAT).No. 166 of 2015 (Z)

APPENDIX

PETITIONERS' EXHIBITS

P1 - TRUE COPY OF THE O.A. 109/2013 ON THE FILES OF THE
CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH.

P2 - TRUE COPY OF THE REPLY STATEMENT FILED BY THE
PETITIONERS HEREIN O.A.109/2013 ON THE FILES OF THE CENTRAL
ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

P3 - TRUE COPY OF THE REJOINDER FILED BY THE APPLICANT
IN O.A.109/2013.

P4 - TRUE COPY OF THE ORDER DATED 28TH OCTOBER 2014 IN
O.A.109/2013 PASSED BY THE CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM
BENCH.

RESPONDENT'S EXHIBITS: NIL

//TRUE COPY//

P.A. TO JUDGE

smv

**K. SURENDRA MOHAN
&
SHAJI P. CHALY, JJ.**

O.P.(CAT) No.166 of 2015

Dated this the 19th day of October, 2015

JUDGMENT

Surendra Mohan,J.

This Original Petition is filed challenging the order dated 28.10.2014 of the Central Administrative Tribunal, Ernakulam Bench in Original Application No.109 of 2013. The petitioners are the respondents in the said Original Application.

2. The respondent herein was an employee of the petitioners. He had approached the Administrative Tribunal complaining that he had not been granted pension counting also the service that had been put in by him as a casual labourer. The case of the respondent is that, he had been working as a casual labourer from 26.05.1969 in the Open Line under the Permanent Way Inspector, Southern Railway at Kottayam. He had produced Annexure A3, the casual labourer service card issued to him. Later on, he was made a permanent staff of the petitioners. As per Rules, 50% of the service put in by him as a casual labourer has to be counted for the purpose of computing

his length of service for the grant of pensionary benefits. He had retired from service on 31.08.2008. He sought appropriate directions from the Central Administrative Tribunal for counting 50% of his casual service also for the purpose of fixing his pension.

3. The petitioners contested the claim of the respondent pointing out that, the claim was not maintainable being barred by limitation. According to the petitioners, the attempt of the respondent was to re-test and re-open the matters concluded more than three decades back.

4. The Tribunal considered the respective contentions, found that the cause of action for filing the Original Application has arisen only when the respondent came to know that his casual service had not been taken into account while computing his total length of service for the purpose of pension. Further, his grievance would continue to exist since he was being denied the pension that was legitimately due to him, month after month. In view of the above, the Tribunal has directed the petitioners to consider the claim of the respondent by verifying the records that would be certainly available with them and to take a decision in the matter.

5. We have heard Sri.V.K.Mohammed Yousuf who appears for the petitioners. Since the Tribunal has not granted any positive relief to the petitioners, we are not satisfied that any prejudice has been caused to the petitioners by the impugned order. It is for the petitioners to consider the claim of the respondent in the light of the service records available with them relating to the respondent's service and to take a decision in the matter in accordance with law. We do not find any infirmity in the order warranting interference with the same

In view of the above, this Original Petition fails and it is accordingly dismissed.

Sd/-
K. SURENDRA MOHAN
JUDGE

Sd/-
SHAJI P. CHALY
JUDGE

//true copy//

P.A. To Judge

smv
18.09.2015