



WEB COPY



W.P. No.3587 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 22.12.2023

CORAM:

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR. JUSTICE P.DHANABAL

W.P. No.3587 of 2019
and WMP.No.3933 of 2019

1. Union of India,
Rep. by its General Manager,
Southern Railway,
Chennai 600 023.
2. Chief Personal Officer,
Southern Railway,
Chennai 600 033.
3. The Financial Adviser and Chief Accounts Officer,
Southern Railway,
Chennai 600 003.

.. Petitioner

Versus

1. The Registrar,
Central Administrative Tribunal,
Madras Bench.
2. J.Ravi

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorari to call for the entire records of the 1st



W.P. No.3587 of 2019

respondent in OA.No.1968 of 2014 including the order dated 26.10.2016 and quash the same.

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For petitioner : Mr.M.Vijay Anand

For respondents

for R1 : Tribunal

for R2 : No Appearance

ORDER

(The Order of the Court was made by D.KRISHNAKUMAR, J)

This Writ Petition has been filed to quash the order of the Tribunal in OA.No.1968 of 2014 dated 26.10.2016.

2. It is the case of the second respondent that he was initially appointed as Commission Bearer on 01.01.1981 in the Southern Railway Catering. Thereafter, he was appointed as substitute in the Railway canteen. Subsequently, as per the direction of the Supreme Court, he was absorbed and appointed in regular basis vide order dated 16.01.1997 and he retired from service on 28.02.2019.



W.P. No.3587 of 2019

3. It is the further case of the second respondent that his initial engagement should be included for pensionary benefits along with the regular service, but the same was rejected by the Department. Challenging the same, the second respondent filed OA.No.194 of 2010. The Tribunal by relying upon a decision of the Division Bench of this Court in WP.No.10422 of 2013 dated 30.09.2013 disposed of the application with a direction to the Department to count 50% of the past services rendered by the him before he was regularised in Railway Services for pensionary benefits. Challenging the same, the Railway Department has filed this petition.

4. The learned counsel for petitioner Department submitted that the second respondent was initially engaged only as a Casual Labour and therefore, he cannot claim himself as a Contract Labour and seek coverage under the provisions of Rule-24 of Railway Services (Pension) Rules. In the decisions relied on before the Tribunal, the petitioners therein were Commission Bearers, but the second respondent herein was a Casual Labourer and therefore, those benefits may not be extended to him.



W.P. No.3587 of 2019

WEB COPY

5. Though notice served on the second respondent, none appeared for him.

6. Heard the learned counsel for the petitioner and perused the materials available on record.

7. It is the case of the petitioner Department that as the second respondent was engaged as a casual labourer, the benefit of adding 50% of the past services rendered cannot be granted.

8. It is to be seen that when a similar OA.No.194 of 2010 was filed before the Ernakulam Bench of the Tribunal, 50% of past services rendered by the employee therein was taken for pensionary benefits. The said order was upheld a Division Bench of this Court in WP.No.10422 of 2013 dated 30.09.2013. The Tribunal relying upon the above order, granted the benefit of counting 50% of the past services to the second respondent.



W.P. No.3587 of 2019

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[D.K.K., J] [P.D.B., J]
22.12.2023

Speaking order: Yes/No
Index : Yes/No
pvs

To
The Registrar,
Central Administrative Tribunal,
Madras Bench.



WEB COPY



W.P. No.3587 of 2019

D.KRISHNAKUMAR, J.
and
P.DHANABAL, J.

pvs

W.P. No.3587 of 2019

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