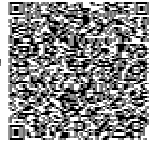


2025:PHHC:050973-DB

CWP-10708-2025 (O&M)
Date of Decision: 21.04.2025

Union of India and others

...Petitioners

Vs.

Tota Ram Sharma and another

...Respondents

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

Present: Ms. Promila Nain, Sr. Panel Counsel for the petitioners.

SANJEEV PRAKASH SHARMA, J. (Oral)

1. The challenge is to the order passed by the Central Administrative Tribunal, Chandigarh Bench, dated 26.11.2024, whereby the CAT has directed the appellants-Railways to count the qualifying service of the original applicant-respondent No.1, by including the period of temporary status as part of qualifying service and has further directed to issue revised PPO accordingly.

2. Learned counsel submits that the original applicant had been regularized on the post of 'Khalasi' from 08.08.1995 and therefore, services were required to be counted only from that period which comes to 25 years. The claim for counting the earlier period of service rendered as a Wireman (Group-C) in the pay scale of Rs.260-400 and thereafter as High Skilled Wireman was not taken up by the respondent No.1 and is highly belated to claim the said period as qualifying service.

3. Learned counsel has further submitted that as per Master Circular No.54 Para No.20, the period of service as casual labourer for pensionary benefits can be only counted to half of the period.

4. We have considered the submissions.

5. A look at para No.20 of the Master Circular No.54, reflects as under:-

“20. Counting of the period of service of Casual Labour for pensionary benefits.

Half of the period of service of a casual labour (other than casual labour employed on projects) after attaining of temporary status on completion of 120 days continuous service if it is followed by absorption in service as regular railway employee, counts for pensionary benefits. With effect from 01.01.1981, the benefit has also been extended to Project Casual Labourer.”

6. It is in relation to a casual labourer other than a casual labourer employed on projects.

7. A look on the service particulars of the respondent No.1 which have been noticed by the CAT reveals that he had joined on 17.02.1983 as Wireman (Group-C) in the pay scale of Rs.260-400. He was granted temporary status on 17.02.1984 and continued in the same pay scale. His pay scale was revised to Rs.950-1500 w.e.f. 01.01.1986 in pursuance of the 4th CPC and then he was further promoted as a High Skilled Wireman in the pay scale of Rs.1200-1800 w.e.f. 21.04.1994 on temporary arrangement basis. We find it surprising that he should have been regularized as ‘Khalasi’ on

08.08.1995. However, we refrain from making any observations as regularization on the post of 'Khalasi' is not under challenge.

8. Be that as it may, we find that the Master Circular No.54 would have no application to the facts of the present case as we have noted that the respondent No.1 was working in the regular pay scale and had also been granted further promotion in the pay scale. Thus, he would not come within the four corners of a casual employee. The service rendered from 17.02.1983 would, therefore, be required to be counted for the purpose of counting his qualifying service. The Hon'ble Supreme Court recently in the case of **Jaggo vs. Union of India and others: 2024 INSC 1034**, held as under:-

“26. While the judgment in Uma Devi (supra) sought to curtail the practice of backdoor entries and ensure appointments adhered to constitutional principles, it is regrettable that its principles are often misinterpreted or misapplied to deny legitimate claims of long-serving employees. This judgment aimed to distinguish between "illegal" and "irregular" appointments. It categorically held that employees in irregular appointments, who were engaged in duly sanctioned posts and had served continuously for more than ten years, should be considered for regularization as a one-time measure.

However, the laudable intent of the judgment is being subverted when institutions rely on its dicta to indiscriminately reject the claims of employees, even in cases where their appointments are not illegal, but merely lack adherence to procedural formalities. Government departments often cite the judgment in Uma Devi (supra) to argue that no vested right to regularization exists for temporary employees, overlooking the judgment's explicit acknowledgment of cases where regularization is appropriate. This selective application distorts the

judgment's spirit and purpose, effectively weaponizing it against employees who have rendered indispensable services over decades.

27. In light of these considerations, in our opinion, it is imperative for government departments to lead by example in providing fair and stable employment. Engaging workers on a temporary basis for extended periods, especially when their roles are integral to the organization's functioning, not only contravenes international labour standards but also exposes the organization to legal challenges and undermines employee morale.

By ensuring fair employment practices, government institutions can reduce the burden of unnecessary litigation, promote job security, and uphold the principles of justice and fairness that they are meant to embody. This approach aligns with international standards and sets a positive precedent for the private sector to follow, thereby contributing to the overall betterment of labour practices in the country.

28. In view of the above discussion and findings, the appeals are allowed. The impugned orders passed by the High Court and the Tribunal are set aside and the original application is allowed to the following extent:

- i. The termination orders dated 27.10.2018 are quashed;*
- ii. The appellants shall be taken back on duty forthwith and their services regularised forthwith. However, the appellants shall not be entitled to any pecuniary benefits/back wages for the period they have not worked for but would be entitled to continuity of services for the said period and the same would be counted for their post-retiral benefits.”*

9. In view of the above, we do not find any reason to interfere with the well reasoned order passed by the CAT dated 26.11.2024. The writ petition is devoid of merit and is dismissed accordingly.
10. All pending misc. application(s) also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

21.04.2025
rajesh

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|-------------------------------|---|--------|
| 1. Whether speaking/reasoned? | : | Yes/No |
| 2. Whether reportable? | : | Yes/No |