



WEB COPY

WP No. 3121 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-01-2026

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THE HON'BLE MR JUSTICE C.V. KARTHIKEYAN

AND

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

WP No. 3121 of 2024

and

W.M.P.No.3398 of 2024

1. Union of India

Rep. By The General Manager,
Southern Railway,
Park Town P.O., Chennai 600 003.

2. The Assistant Personnel Officer/

Settlement,
Chennai Division, Southern Railway,
Chennai 600 003.

..Petitioner(s)

Vs

1. R.Devarajan

Retd. Senior Technician SSE / Works / MPK /
MAS Division / S. Rly, No.4 / 226, 4th Street
Bharathidasan Nagar, Kaspapuram Main
Agaram, East Tambaram Selaiyur 600 126.



2. The Registrar

Central Administrative Tribunal,
Madras Bench, Chennai.

..Respondent(s)

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records from the file of the 2nd respondent in O.A. No 811 of 2018 dated 27.4.2023 and quash the same.

For Petitioner(s): Mr.C.Kulanthaivel

For Respondent(s): M/s.Kumudhaa.G.

For M/s. Aparna Nandakumar
R2- Tribunal

ORDER

(Order of the Court was made by K.Kumaresh Babu J.)

The present writ petition has been filed to quash the order passed by the 2nd respondent in O.A. No 811 of 2018 dated 27.4.2023

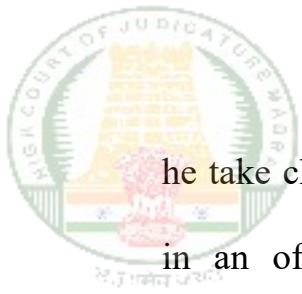
2. The learned counsel appearing for the petitioner would submit that the first respondent herein had been granted temporary status as a casual labourer with effect from 01.08.1981 and was empanelled as a Brick Layer with effect from 27.03.1992. He was further promoted as Brick Layer HS-II with effect



from 28.03.1995. He had superannuated from service on 31.01.2017. On superannuation, 50% of the service rendered by him as a casual labourer was taken into account for reckoning his qualifying service for terminal benefits.

3. However, the first respondent had made a representation, seeking inclusion of the entire period of casual labour service as qualifying service, which was negated by the order dated 31.01.2017 by placing reliance upon Rule 31 of the Railway Service Pension Rules. Challenging the same, the first respondent had preferred an original application, which came to be allowed by the Tribunal in the impugned order, holding that the first respondent was entitled to count the full service by applying Rule 20 and not Rule 31 and directed the entire period of casual service to be counted as a full qualifying service and to revise the retirement benefits and to pay all consequential arrears with admissible interest. He would vehemently contend that as per Rule 31, only 50% of the casual labour service could be counted along with the service after being borne into the cadre. Hence, he would seek indulgence of this Court to set aside the orders impugned herein.

4. Countering his arguments, M/s.Kumudhaa.G, learned counsel, on behalf of M/s.Aparna Nanda Kumar, learned counsel for the first respondent, would submit that Rule 20 of the Railway Services Pension Rules envisages that the qualifying service of a Railway servant shall commence from the date when



he take charge of the post to which he is first appointed either substantively or in an officiating or temporary capacity, providing that the officiating or temporary service is followed, without interruption, by substantive appointment in the same or another service or post. She would submit that the first respondent, who had been employed as a casual labourer on temporary status, was empanelled in a regular post with effect from 1992 and therefore, his temporary appointment, even though as a casual labourer, should be counted in full for reckoning the full qualifying service and for grant of pensionary benefits accordingly.

5. Further, in support of her contention, the learned counsel had also relied upon the judgment of Hon'ble Supreme Court in ***Union of India and others Vs. Rakesh Kumar and others***, reported in ***(2017) 13 SCC 388*** and the judgment of the Coordinate Bench of this Court in ***W.P.No.33866 of 2022 dated 26.11.2024***.

6. Therefore, she would pray that this Court to dismiss the writ petition.

7. We have considered the submissions made by the learned counsel appearing on either sides and perused the materials placed on record.



8. It is not in dispute that the first respondent herein was originally appointed as a casual labourer and was permanently empanelled as a Brick Layer in the year 1992. The only issue for consideration is as to what period of service that the first respondent rendered by the first respondent as a casual labourer could be counted for reckoning the qualifying service for terminal benefits. The issue is also no longer *res integra*.

9. The Hon'ble Apex Court, in the judgment relied upon by the learned counsel for the petitioner in the case of ***Union of India and others Vs. Rakesh Kumar and others (cited supra)***, has categorically held that the grant of temporary status as a casual labourer is not akin to appointment against a post and such contingency is not covered by Rule 20, and the same is expressly covered under Rule 31.

10. For better appreciation, the relevant paragraph 44 is extracted hereunder:

“44. As observed above, the grant of temporary status of casual labour is not akin to appointment against a post and such contingency is not covered by Rule 20 and the same is expressly covered by Rule 31 which provides for “half the service paid from contingencies shall be taken into account for calculating pensionary benefits on absorption in regular employment subject to certain conditions enumerated therein”. Thus Rule 31 is



clearly applicable while computing the eligible services for calculating pensionary benefits on granting of temporary status.”

11. Noting the above, the Hon’ble Apex Court has held that an employee, who had been a casual labourer and granted temporary status would be entitled to count only 50% of his service as a casual labourer, as per Rule 31 of the Railway Service Pension Rules.

12. As rightly pointed out by the learned counsel for the petitioner that the Coordinate Bench of this Court in ***W.P.No.33866 of 2022 dated 26.11.2024*** has also held that a temporary employee, receiving salary from contingencies cannot be construed as being in regular employment of the Railways and such employment would entitle the employee to count only 50% of the temporary service rendered, as per Rule 31 of the Railway Services Pension Rules, which we are also in complete agreement with.

13. In view of the ratio laid down by the Hon’ble Supreme Court as extracted supra, the writ petition stands allowed and the order impugned in O.A.No 811 of 2018 passed by the 2nd respondent dated 27.4.2023 stands set aside.



14. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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(C.V.K.,J.) (K.B.,J.)
29-01-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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To

The Registrar
Central Administrative Tribunal,
Madras Bench, Chennai.



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**C.V.KARTHIKEYAN, J.
AND
K.KUMARESH BABU, J.**

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