(2025) 08 CAT CK 0299

In the Central Administrative Tribunal, Allahabad Bench, Allahabad

Case No : Original Application No. 330, 01274 Of 2018

Krishna Prasad APPELLANT

Vs

Union Of India Through General Manager, North Central Railway, Headquarter Office, Allahabad & Ors. RESPONDENT

Date of Decision : 01-08-2025

Acts Referred:
Railway Services (Pension) Rules, 1993 — Rule 14, 14(x), 31

Citation : (2025) 08 CAT CK 0299

Hon'ble Judges : Om Prakash VII, Member (J)

Bench : Single Bench

Advocate : Sunil, K.K. Ojha

Final Decision : Dismissed

Judgement

Om Prakash VII, Member (J)

1. The instant original application has been filed seeking following relief:

(i) To direct the respondent authorities to recalculate the amount of retiral benefits awarded to the applicant by the department and pay the rest amount of retiral benefits for which applicant is entitle.

(ii) To direct the respondents to take suitable decision on the applications moved by the applicant before him for recalculating the retiral benefits of applicant.

(iii) Any other relief as this Hon'ble Tribunal deem fit in the circumstances.

(iv) Award cost of the original application in favour of the applicant.

(v) This Hon'ble Court may kindly be pleased to quash the order dated 17.06.2015".

2. The brief facts of the case are that the applicant was appointed as a Casual Khalasi in the Railways on 10.10.1973, and his services were regularized from 08.07.1981. He retired on 31.07.2014 from the post of HLPR-1. After retirement,

the respondents issued a letter dated 26.07.2014, granting him retirement benefits including DCRG of Rs.2,06,830, commutation value of Rs.2,19,861, and a pension of Rs.5,590 per month. They considered 33 years and 22 days as qualifying service and excluded 14 years, 4 months, and 16 days as non-qualifying service. The applicant was also not paid his Provident Fund. Applicant believed that applicant was entitled to retirement dues of Rs.10–12 lakhs, the applicant submitted a representation on 17.10.2014 requesting re-calculation. Since no decision was taken, he filed OA No. 1623/2014 before the Tribunal, which directed the respondents to decide the representation by order dated 20.01.2015.Later, through a compliance affidavit dated 25.09.2015, it came to light that the representation had already been decided on 17.06.2015, but the applicant was unaware of it. After knowing this, the applicant filed an amendment application, which was allowed on 13.09.2022. He then amended his pleadings to challenge the order dated 17.06.2015 and sought re-calculation of his retiral benefits.

3. Per contra, respondents have filed counter affidavit wherein it has been stated that the applicant was engaged as a Casual Labourer in the Railways on 10.10.1973, granted temporary status from 08.07.1981, and later regularized from 01.09.1996. He retired on 31.07.2014 from the post of HLPR-1. After retirement, the respondents issued a letter dated 26.07.2014, granting the applicant retiral benefits based on qualifying service of 33 years and 23 days. However, they excluded a total of 14 years, 4 months, and 17 days as non-qualifying service, which is as under:-

(i) Leave Without Pay (LWP) of 2480 days (approx. 6 years, 9 months, 20 days), and

(ii) 50% of temporary status service from 08.07.1981 to 01.09.1996 (approx. 7 years, 6 months, 27 days).

Thus, the net qualifying service was calculated as 18 years, 8 months, and 6 days. Based on this, the applicant was paid:

(i) DCRG: Rs.2,06,830

(ii) Commutation: Rs. 2,19,861

(iii) Leave encashment: Rs. 9,317

(iv) GIS: Rs. 5,528

(v) PF: Rs. 52,901

(vi) Monthly Pension: Rs. 5,580

The applicant challenged aforesaid calculation, claiming insufficient pay of retiral dues. He had submitted a representation dated 17.10.2014, seeking recalculation, which he claimed was not responded to. He then filed OA No. 1623/2014, and the Tribunal directed the respondents on 20.01.2015 to decide his representation. Later, through a compliance affidavit dated 25.09.2015, it came to light that the representation had already been decided on 17.06.2015, but the applicant claimed he was unaware of this order. He subsequently filed an amendment application which was allowed on 13.09.2022, whereby he sought to quash the order dated 17.06.2015 and recalculate his retiral benefits.

4. The applicant has filed Rejoinder Affidavit to the Counter Affidavit as filed by the respondents refuting the contentions made by the respondents in their Counter Affidavit while reiterating the averments made in the O.A. and nothing new has been added.

5. I have heard Shri Sunil, learned counsel for the applicant and Shri K.K Ojha, learned counsel for the respondents and perused the records.

6. Learned counsel for the applicant argued that the applicant's representation dated 17.10.2014 was allegedly decided by the respondents on 17.06.2015, but the decision was not communicated to the applicant. Non-communication of an adverse order deprives the applicant of an opportunity to respond or challenge the same, thereby violating the principles of natural justice. Learned counsel for the applicant further argued that the Tribunal, vide order dated 20.01.2015, directed the respondents to decide the applicant's representation. The respondents failed to timely communicate the decision and only disclosed it in a compliance affidavit dated 25.09.2015, suggesting lack of due diligence and transparency. This amounts to non-compliance with the Tribunal's order. Learned counsel for the applicant again argued that the exclusion of 14 years, 4 months, and 17 days as non-qualifying service is arbitrary and contrary to the Railway Board's instructions and judicial precedents. It is notable that the applicant was in continuous employment since 1973, and was granted temporary status from 1981, and regularized in 1996. Hence, the entire service from 1981 onwards should reasonably be treated as qualifying service for pensionary benefits. Learned counsel for the applicant next argued that as per Rule 14 and Rule 31 of Railway Services (Pension) Rules, 1993, require qualifying service to be considered for computation of pension, but the exclusion of half of temporary status service lacks valid justification under the rules and settled law. The applicant's claim for recalculation of retiral dues based on full qualifying service is legally tenable, especially considering his long-standing and uninterrupted service. Learned counsel for the applicant lastly argued that in various judicial pronouncements, the Hon'ble Court has held that temporary service following continuous casual employment and grant of temporary status cannot be wholly excluded from pension computation. The same principles apply to the applicant's case, reinforcing his right to enhanced retiral benefits.

7. Learned counsel for the respondents in rebuttal argued that the respondents have calculated the retiral benefits strictly in accordance with Rule 14(x) and Rule 31 of the Railway Services (Pension) Rules, 1993, which provide that only qualifying service shall be considered for computation of pension and related benefits. Leave Without Pay (LWP) and only 50% of the service rendered during

temporary status are admissible as qualifying service under the applicable rules, and the same has been correctly applied in the applicant's case. It has also been argued that the applicant was in Leave Without Pay (LWP) for a total of 2,480 days, i.e., about 6 years, 9 months, and 20 days. Additionally, under the extant rules, only 50% of temporary status service from 08.07.1981 to 01.09.1996 (approximately 7 years, 6 months, and 27 days) can be treated as qualifying service. Hence, 14 years, 4 months, and 17 days were lawfully excluded as non-qualifying service, resulting in net qualifying service of 18 years, 8 months, and 6 days, which was the basis for retiral dues computation. Learned counsel for the respondents next argued that there is no outstanding dues as the retiral benefits have been disbursed in accordance with the relevant statutory rules and circulars. It has also been argued that the applicant's representation dated 17.10.2014 was considered and decided by the competent authority on 17.06.2015. This decision was duly brought to the notice of the Tribunal vide a compliance affidavit dated 25.09.2015. There is no procedural irregularity or mala fide intention, and the compliance with the Tribunal's order dated 20.01.2015 was duly made. It has been argued by the respondents that pension and retiral benefits are governed by statute, and the applicant can only claim what is admissible under the applicable statutory provisions. Mere continuous employment or expectation of higher benefits does not create an enforceable legal right, especially when rules clearly limit qualifying service.

8. I have considered the rival submissions advanced by the learned counsel for the parties and have gone through the entire record.

9. Upon consideration of the pleadings, material on record, and rival submissions of learned counsel for both parties, this Tribunal finds no merit in the present Original Application.

10. It is not disputed that the applicant was appointed as a Casual Labourer in the Railways on 10.10.1973, granted temporary status from 08.07.1981, and regularized on 01.09.1996. The retiral benefits were sanctioned based on the calculation of qualifying service as per Rules 14

(x) and 31 of the Railway Services (Pension) Rules, 1993, which runs as under:-

"14 Periods which shall not be treated as service for pensionary benefits- periods of employment in any of the following capacities shall not constitute service for pensionary benefits, namely;-

(x) Period of unauthorized absence in continuation of authorized joining time or in continuation of authorized leave of absence treated as overstay".

31. Counting of service paid from Contingencies- In respect of a railway servant, in service on or after the 22nd day of August, 1968, half the service paid from contingencies benefits on absorption in regular employment, subject to the following condition namely: -

(a) the service paid from contingencies has been in a job involving wholetime employment;

(b) the service paid from contingencies should be in a type of work or job for which regular posts could have been sanctioned such as posts of malis, chowkidars and khalasis;

(c) the service should have been such for which payment has been made either on monthly rate basis or on daily rates computed and paid on a monthly basis and which, though no analogous to the regular scales of pay, borne some relation in the matter of pay to those being paid for similar jobs being performed at the relevant period by staff in regular establishments;

(d) the service paid from contingencies has been continuous and followed by absorption in regular employment without a break; Provide that the weightage for past service paid from contingencies shall be limited to the period after 1st January 1961 subject to the condition that authentic records of service such as pay bill, leave record or service-book is available.

NOTE - (1) the provisions of this rule shall also apply to casual labour paid from contingencies. (2) The expression “absorption in regular employment” means absorption against a regular post”.

In view of aforesaid provision, the respondents have calculated as under:

(i) Only 50% of the temporary status service is to be counted as qualifying service,

(ii) Leave Without Pay (LWP) period is to be excluded from qualifying service.

11. The respondents, in strict adherence to these provisions, excluded the following periods as non-qualifying service:

(i) 2480 days of LWP (approximately 6 years, 9 months, 20 days),

(ii) 50% of the temporary status period from 08.07.1981 to 01.09.1996 (approximately 7 years, 6 months, 27 days).

12. Based on aforesaid facts, the total net qualifying service was computed as 18 years, 8 months, and 6 days, and retiral dues were accordingly sanctioned. The applicant has not produced any rule, circular, or binding judicial precedent that overrides these specific provisions of the Pension Rules.

13. The claim of violation of natural justice due to non-communication of the decision dated 17.06.2015 also does not stand. The record shows that the said order was duly placed before this Tribunal through a compliance affidavit dated 25.09.2015, and no evidence has been produced to show deliberate suppression or mala fide. The applicant’s claim that he was unaware of the decision lacks substance, particularly when he amended his pleadings much later in 2022.

14. Furthermore, the applicant's service was governed entirely by statutory rules, and no enforceable legal right to claim higher retiral benefits arises in

contravention of such rules. The mere expectation of higher benefits, absent a legal basis, is not tenable. Therefore, this Tribunal finds no illegality, arbitrariness, or procedural lapse in the action of the respondents. The decision dated 17.06.2015 appears to be duly passed and in consonance with law, and there is no justification for its quashing.

15. In view of the foregoing, the Original Application is dismissed as being devoid of merit. There shall be no order as to costs. All associated MAs are disposed of.

