courtkutchehry.com

Company : CourtKutchehry
Website : www.courtkutchehry.com
Printed For :
Date : 26/08/2026

(2022) 10 CAT CK 0040

In the Central Administrative Tribunal

Case No : Original Application No. 180, 00784 Of 2019

Prasanna Satheesh APPELLANT

Vs

Union Of India & Ors RESPONDENT

Date of Decision : 26-10-2022

Acts Referred:
Central Civil Services (Pension) Rules, 1972 — Rule 13, 14

Citation : (2022) 10 CAT CK 0040

Hon'ble Judges : K. Haripal, Member (J)

Bench : Single Bench

Advocate : T. Niklavu, Thomas Mathew Nellimoottil, V. Santharam

Final Decision : Dismissed

Judgement

K.Haripal, Member J

1. The applicant is a retired Junior Engineer from BSNL, who had commenced her service as a Casual Labourer on 01.01.1983. She continued as such till 31.03.1993 till she was designated as Temporary Status Mazdoor, on 01.10.1989. According to the applicant, she was regularised from Temporary Status Mazdoor on 31.03.1993. After completing 10 years she was permanently absorbed in the Department of Telecommunication on 01.10.2000. She retired from service as Junior Engineer on 31.03.2019. On 20.07.2000 itself she had made a representation before the Chief General Manager requesting to reckon her service as Casual Mazdoor/Temporary Status Mazdoor for service benefits. However, while granting pension, service from 20.07.1993 till 31.03.2019, for 27 years 6 months and 17 days alone was reckoned. According to her, in fact she had put in 36 years and 3 months qualifying service. Her grievance is that her period of service from 01.01.1983 to 30.09.1989, for 6 years and 8 months were not reckoned while granting pension. Therefore, she approached the Tribunal to direct the respondents to consider the casual/temporary service from 01.01.1983 to 30.09.1989, for 6 years and 8 months in full, for calculating the qualifying service for pension and to grant her pensionary benefits.

2. In support of the contentions, she has also placed reliance on the decision reported in Union of India v. Rakesh Kumar and others [(2018) 1 SCC (L&S) 51] of the Apex Court and an order of this Tribunal, Annexure-A6 in O.A. 957/2014.

3. In their reply statement, respondents 1 and 3 denied the contentions. According to them, the 4th respondent had calculated qualifying service of the applicant taking into account all relevant aspects. 50% of the provisional service rendered by her from 01.10.1989 to 19.07.1993, for 1 year and 10 months, was already taken into account on the basis of the instructions issued by the Telecom Department, Government of India. She was regularised as Casual Labourer on the basis of the Office Order dated 18.11.1988. Accordingly, temporary status was conferred on all the casual labourers engaged by the Telecom who had rendered continuous service of atleast one year, out of which they must have been engaged on work for a period of 240 days (206 days in the case of offices observing 5 days week). Such casual labourers were designated as Temporary Mazdoors and 50% of their service was counted for the purpose of retirement benefits after their regularisation. The applicant was designated as Temporary Status Mazdoor with effect from 01.10.1989. So, they prayed for dismissing the application.

4. The respondents 2, 4 and 5 in their detailed reply also disputed the claim of the applicant. According to them, the application has been filed on experimental basis. On the basis of circular issued by the Department of Telecommunications dated 07.11.1989 a scheme was formulated by name 'The Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of the Department of Telecommunications, 1989'. The scheme came into effect on 01.10.1989. Accordingly, all the casual labourers employed in the Department of Telecommunications as on 07.11.1989, who had rendered continuous service for atleast one year out of which they were engaged on work for a period of 240 days were conferred temporary status. Such casual labourers who acquired temporary status would not be brought on to the permanent establishment unless they were selected through regular selection process for Group-D posts. The scheme provided that upon conferment of a casual labourer with temporary status, 50% of the Temporary Status Mazdoor service would be counted for pension in terms of Pension Rules applicable in Central Government. The copy of the scheme is marked as Annexue-R4(a). According to the respondents, the applicant was initially appointed as Woman Casual Mazdoor under Annexure-R4(b). She was granted temporary status under R4(c) with effect from 01.10.1989. As per the scheme, 50% of the temporary status service alone would be counted for pension after regularisation and there is no provision for counting the casual labour service and the claim to the contrary is unsustainable. The applicant was regularised on 20.07.1993 under Annexure-R4(d) and was confirmed in the cadre of Group-D with effect from 20.07.1995. According to the respondents, the applicant was staking such a claim for the first time, after long lapse of time. Therefore, Annexure-A3 representation, which is belated and time barred cannot be considered. Her service as casual labourer is governed by the

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/prasanna-satheesh-appellant-hash-…

provisions of the Industrial Disputes Act and this Tribunal is not the appropriate forum for pronouncing on the claim. The decision of the Supreme Court in Rakesh Kumar, quoted supra, is not applicable to the facts of the case. Similarly, Annexue-A6 order also cannot be pressed into service. Referring to Annexue-R4(f) they stated that Annexure-A6 order stands stayed by the High Court.

5. The applicant filed a rejoinder reiterating the contentions in the O.A. and also contending that she had put in 3188 days of service as Casual Mazdoor from 01.01.1983 to 31.03.1993. In this connection, she has relied on Annexue-A7 series documents. Referring to Rules 13 and 14 of the CCS(Pension) Rules, it was pointed out that, for the purpose of reckoning the qualifying service the date from which she had taken charge in the post should have been reckoned and that during the Casual Labour service she was paid from the Consolidated Fund of India. According to the applicant, she was appointed as Casual Mazdoor after fulfilling all the formalities of recruitment to the Group-D post through the Employment Exchange. The argument that 50% of the Temporary Status alone can be counted for pension is against the provisions of Chapter-III of the CCS(Pension) Rules.

6. In the additional reply, respondents 2,4 and 5 have contended that Casual Mazdoors are engaged to work only in casual, or seasonal, or intermittent nature. Later, such labourers were conferred Temporary Status in Annexure-R4(a), in which it is made clear that 50% of the service rendered as Temporary Mazdoors will be counted for calculating retirement benefits after regularisation. Pension of all Government servants is regulated by CCS(Pension) Rules, which is not applicable to persons in casual employments and for daily rated employees. Casual Mazdoors are engaged by the departments on the basis of the requirements. Later, under a special scheme, one time regularisation was made under Annexure-R4(a). According to them, the applicant is not entitled to get any relief.

7. It is not disputed that the applicant was appointed as Woman Casual Mazdoor through Employment Exchange on 01.01.1983. Annexure-R4(b), the copy of the order of appointment throws ample light on the nature of appointment. It is stated that the applicant along with three others were provisionally selected for engagement as Woman Casual Mazdoor on daily wage basis at the rates in force from time to time, whenever required within the jurisdiction of the sub division. It is specifically stated that 'the selection does not confer upon them any right whatsoever for regular or continued employment.' They were further informed that they can work on daily wage basis only when vacancies arise due to absenteism in the cadre of Group-D from among lady officials. That means, their nature of work was purely casual, occasional and piecemeal.

8. Admittedly, the applicant worked as such till 31.03.1993. Details of various spells of duties done by her have been produced, which are not in dispute. All the same, it is very clear that she was engaged on daily wages at the rates in force from time to time; she could be engaged only when vacancies arose due to

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/prasanna-satheesh-appellant-hash-…

absenteeism in Group-D cadre among lady officials. The nature of engagement was purely casual, occasional and piecemeal. To put in other words, the engagement of the applicant was not against a particular post, no salary was paid to her but she was engaged on daily wage basis at the rates in force from time to time.

9. It has also come out that she was given temporary status with effect from 01.10.1989. The respondents have produced copy of the order as Annexure-R4(c). It is made clear that the applicant is entitled to count 50% of the service rendered under temporary status for the purpose of retirement benefits after her regularisation. Even though the applicant had claimed that she was regularised with effect from 31.03.1993, Annexure-R4(d) proceedings shows that she was regularised with effect from 20.07.1993. Whatever it may be, Annexure-R4(e) is the proceedings by which her appointment in Group-D was confirmed with effect from 20.07.1995.

10. It is the common case that the applicant had retired from service as Junior Engineer on 31.03.2019 at the age of 60 years. Her qualifying service was reckoned in Annexure-A4. This suggests that she had put in 27 years 6 months and 18 days of qualifying service which includes regular service from 20.07.1993 till the date of superannuation, 25 years 8 months 5 days. Along with it, 50% of the Temporary Status Mazdoor service from 01.10.1989 till 19.07.1993 was reckoned as 1 year 10 months and 13 days. In other words, her Casual Mazdoor service from 01.01.1983 till 30.09.1989 has been eschewed. That is the cause of the grievance of the applicant. After hearing the counsel on both sides and considering the materials on record, I have no doubt that there are very many impediments in granting any relief to the applicant.

11. Firstly, I have already noticed the nature and character of the engagement of the applicant as Casual Mazdoor on 01.01.1983. Such an engagement continued till 30.09.1989 irrespective of the number of days in which she was engaged. Annexure-R4(b) completely wipe out her case that she had commenced qualifying service on 01.01.1983. As rightly pointed out by the learned Standing Counsel for the respondents 2, 4 and 5, in order to commence qualifying service as claimed by the applicant, that should be against a post and should fall within the scope of Rule 13 of the Pension Rules.

12. Secondly, the Department of Telecom had formulated a scheme by name 'The Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of the Department of Telecommunications, 1989'-Annexure-R4(a), which is applicable to the casual labourers employed by the Department of Telecommunications had come into force on 01.10.1989. The applicant was given temporary status by virtue of Clause-5 of the scheme which reads thus:

“5.Temporary Status

(i) Temporary Status would be conferred on all the casual labourers currently employed and who have rendered a continuous service of at least one year, out

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/prasanna-satheesh-appellant-hash-…

of which they must have been engaged on work for a period of 240 days (206 days in the case of offices observing five-day week). Such casual labourers will be designated as Temporary Mazdoor.

ii) Such conferment of temporary status would be without reference to the creation/availability of regular Group 'D' posts.

(iii) Conferment of temporary status on a casual labourer would not involve any change in his duties and responsibilities. The engagement will be on daily rates of pay on a need basis. He may be deployed anywhere within the recruitment unit/territorial circles on the basis of availability of work.

(iv) Such casual labourers who acquire temporary status will not, however, be brought on to the permanent establishment unless they are selected through regular selection process for Group 'D' posts."

Clause 6(iv) stipulates that they are entitled to count 50% of service rendered under temporary status for the purpose of retirement benefits after the regularisation.

13. As adverted to earlier, conferment of temporary status also did not provide any additional benefit to the applicant. Later, under Annexure-R4(d) she was appointed as Group-D on 20.07.1993. In fact, only from 20.07.1993, she had commenced her qualifying service, as stipulated in Rule 13 of the Pension Rules. Such a service has been reckoned as 25 years 8 months and 5 days. Added to this 50% of the Temporary Status Mazdoor service from 01.10.1989 to 19.07.1993 has also been reckoned.

14. In my judgment, I do not find any illegality in eschewing the period from 01.01.1983 to 30.09.1989 from consideration. As rightly pointed out by the learned Standing Counsel for the respondents, Annexures-A5 and A6 are not applicable to the facts of the case. Annexure-A5 was rendered by the Hon'ble Apex Court in respect of some temporary employees of the Railways, for whom Pension Rules are different. The facts of the case are also different. Similarly, Annexure-A6 also turned out on different facts. It has come out that the BSNL was carved out from the Posts and Telecommunication Department on 01.10.2000. On the eve of formation of the BSNL, the petitioner in Annexure-A6, who was an 'Ayah' in a Creche attached to the Office of the Telephone District Engineer, was regularised and that was the claim for reckoning her entire service for pension. I do not think that the facts of the case are applicable to the applicant. Moreover, the operation of the order stands stayed by the High Court in the Original Petition, challenging the correctness of the same.

15. To sum up, the applicant had commenced her qualifying service only from 20.07.1993 by virtue of the provisions in Annexure-R4(a). 50% of the Casual Mazdoor service has been added to her credit for reckoning qualifying service for pension. She is not entitled to reckon the period from 01.01.1983 to 30.09.1989 for estimating pension.

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/prasanna-satheesh-appellant-hash-…

The application is devoid of merits and is dismissed. No costs.

Dated 26th October, 2022

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/prasanna-satheesh-appellant-hash-...