

**(2018) 05 CAT CK 0099**

**In the Central Administrative Tribunal**

**Case No :** Original Application No. 2971 Of 2016, Miscellaneous Application No. 3519 Of 2016

Prem Ballabh

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

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**Date of Decision :** 04-05-2018

**Acts Referred:**

**Citation :** (2018) 05 CAT CK 0099

**Hon'ble Judges :** Jasmine Ahmed, J;Uday Kumar Varma, Member (A)

**Bench :** Division Bench

**Advocate :** P.S. Khare, Krishna Kant

**Final Decision :** Disposed Of

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## **Judgement**

Jasmine Ahmed, J

1. Counting of services as a casual labour and as temporary status holder for purpose of pension is the issue involved in this case.
2. The applicant herein, who is stated to have entered the services of the respondents as early as in 1980 and granted temporary status in 1982 and regularized as Group D category in 1992 seeks regularization of his past casual labour service and temporary status service to count as qualifying service to the extent of 50% of such services. He relies upon the earlier decisions of this Tribunal as upheld by the Apex Court to concretize his case.
3. Respondents, as is usual, contested the matter, referring to pendency of certain Special leave petitions, financial implications, relevant rules and regulations especially, Para 20 of the Master Circular No. 54 and also stating that the service period under the Temporary Status category has already been counted as per the extant rules and thus prayed for dismissal of the O.A.
4. The respondents have filed an M.A. 3519/2017 annexing the judgment dated 24-03-2017 of the Hon'ble Apex Court in Civil Appeal No.3938 of 2017 along with

other Civil Appeal Nos. 3939 of 2017, 3940 of 2017, 3941 of 2017, 4384 of 2017, 3943 of 2017 and 3944 of 2017, and prayed that the ratio of the said judgment be telescoped upon the facts of the case of the applicant and the matter be decided. Respondents have relied on the judgment above stated.

5. In the above judgment of the Apex Court, the operative portion of the judgment has been furnished in para 55 and the same is as hereunder:-

55. In view of foregoing discussion, we hold :

i) the casual worker after obtaining temporary status is entitled to reckon 50% of his services till he is regularised on a regular/temporary post for the purposes of calculation of pension.

ii) the casual worker before obtaining the temporary status is also entitled to reckon 50% of casual service for purposes of pension.

iii) Those casual workers who are appointed to any post either substantively or in officiating or in temporary capacity are entitled to reckon the entire period from date of taking charge to such post as per Rule 20 of Rules, 1993.

iv) It is open to Pension Sanctioning Authority to recommend for relaxation in deserving case to the Railway Board for dispensing with or relaxing requirement of any rule with regard to those casual workers who have been subsequently absorbed against the post and do not fulfil the requirement of existing rule for grant of pension, in deserving cases. On a request made in writing, the Pension Sanctioning Authority shall consider as to whether any particular case deserves to be considered for recommendation for relaxation under Rule 107 of Rules, 1993."

6. Since the above judgment is one of judgment in rem, the law laid down by the Apex Court would govern this case as well.

7. In view of the above, both the OA as well as the MA is disposed of with the direction to the respondents to consider the claim of the applicant for regularisation of his past services as a casual labourer and as a Temporary Status employee for reckoning the qualifying service on the basis of the above judgment of the Apex Court and the benefit arising out of the said services be made available to the applicant. In so far as MACP is concerned, which the applicant claims, the same shall be in accordance with the prescribed rules.

8. Time calendared for compliance of this order is 6 months from the date of receipt of certified copy of this order by the Respondents/their counsel.

Under the above circumstances, there shall be no orders as to cost.