

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

**Original Application No.180/00198/2019,
Original Application No.180/00454/2019,
Original Application No.180/00455/2019,
Original Application No.180/00456/2019,
Original Application No.180/00457/2019,
Original Application No.180/00458/2019,
Original Application No.180/00571/2019,
Original Application No.180/00572/2019
& Original Application No.180/00695/2019**

Tuesday, this the 7th day of January, 2020

C O R A M :

**HON'BLE Mr.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER
HON'BLE Mr.ASHISH KALIA, JUDICIAL MEMBER**

Original Application No.180/00198/2019

Balagopalan.K.R.,
Traffic Inspector (Retd.),
Southern Railway, Palghat Division.
Residing at Balaji Nivas, Karipal P.O.,
Chappara Padavu, Kannur.

...Applicant

(By Advocate Mr.Siby J Monippally)

v e r s u s

1. Union of India represented by General Manager,
Southern Railway, Park Town, Chennai – 3.

2. The Senior Divisional Personnel Officer,
Southern Railway, Palghat Division, Palghat.

...Respondents

(By Advocate Mr.S.Radhakrishnan)

Original Application No.180/00454/2019

N.P.Prabhakaran,
Aged 65 years,
S/o.K.K.S.Panicker,
Deputy Chief Ticket Inspector (Retd.),
Commercial Southern Railway, Bangalore Division.
Residing at Prabhatham, Ariyallur P.O.,
Via Parappanangadi, Malappuram District – 676 312.

...Applicant

(By Advocate Mr.Siby J Monippally)

.2.

v e r s u s

1. Union of India represented by General Manager,
South Western Railway, Hubli, Karnataka – 580 009.
2. The Senior Divisional Personnel Officer,
South Western Railway, Bangalore Division,
Bangalore – 580 001.

...Respondents

(By Advocate Mr.Asif.K.H.)

Original Application No.180/00455/2019

Sreedharan Nair.M.P.,
Aged 66 years,
S/o.M.Narayanan Nair,
Sweeper Cum Porter (Retd.),
Southern Railway, Palghat Division.
Residing at Pushpalayam, Makkada P.O.,
Calicut – 673 611.

(By Advocate Mr.Siby J Monippally)

v e r s u s

1. Union of India represented by General Manager,
Southern Railway, Park Town, Chennai – 3.
2. The Senior Divisional Personnel Officer,
Southern Railway, Palghat Division,
Palghat – 673 002.

...Respondents

(By Advocate Mr.Asif.K.H.)

Original Application No.180/00456/2019

M.V.Chandrika (legal representative),
W/o.late P.K.Mohanan,
Helper-II, Electrical,
Southern Railway, Trivandrum Division.
Residing at Pambungal House,
Mundoor P.O., Trichur – 680 541.

...Applicant

(By Advocate Mr.Siby J Monippally)

v e r s u s

1. Union of India represented by General Manager,
Southern Railway, Park Town, Chennai – 3.

.3.

2. The Senior Divisional Personnel Officer,
Southern Railway, Trivandrum Division,
Trivandrum – 695 014.

...Respondents

(By Advocate Mr.Asif.K.H.)

Original Application No.180/00457/2019

S.Zakir Hussain,
A/C Mechanic Grade – III,
Southern Railway, Trivandrum Division.
Residing at Thara Manzil, Chathanoor P.O., Quilon.

...Applicant

(By Advocate Mr.Siby J Monippally)

v e r s u s

1. Union of India represented by General Manager,
Southern Railway, Park Town, Chennai – 3.

2. The Senior Divisional Personnel Officer,
Southern Railway, Trivandrum Division,
Trivandrum – 14.

...Respondents

(By Advocate Mr.Asif.K.H.)

Original Application No.180/00458/2019

K.A.Sudhakaran,
Server Peon (Retd.),
TTE Rest Room, Ernakulam,
Southern Railway, Trivandrum Division.
Residing at Karumathil House, Annakkara P.O.,
Poovathur Via, Trichur.

...Applicant

(By Advocate Mr.Siby J Monippally)

v e r s u s

1. Union of India represented by General Manager,
Southern Railway, Park Town, Chennai – 3.

2. The Senior Divisional Personnel Officer,
Southern Railway, Trivandrum Division,
Trivandrum – 14.

...Respondents

(By Advocate Mr.Asif.K.H.)

.4.

Original Application No.180/00571/2019

1. K.K.Narayanan, Aged 66 years,
S/o.M.Narayanan Nambiar,
Prayag, Karipal P.O., Cheppalappadavu,
Cannannore – 670 581.
Southern Railway, Trivandrum Division,
Traffic Porter (Retd.), SMR Office, Trivandrum.
2. K.Sathyanathan, Aged 66 years,
S/o.K.Damodaran Nair,
Jyothis, Kakkalaya Parambu,
West Hill P.O., Edakkad, Calicut – 673 005.
Helper Electrical (Retd.) SSE Office,
Ernakulam, Southern Railway, Trivandrum Division.
3. P.A.Sasidharan, Aged 66 years,
S/o.P.C.Narayanan Nair,
Akkara House, Chulur P.O.,
Via. NIT Calicut – 673 601.
Senior Commercial Clerk (Retd.),
Kallai, Southern Railway, Palghat Division.

...Applicants

(By Advocate Mr.Siby J Monippally)

v e r s u s

1. Union of India represented by General Manager,
Southern Railway, Park Town, Chennai – 600 003.
2. The Senior Divisional Personnel Officer,
Southern Railway, Trivandrum Division,
Trivandrum – 695 014.
3. The Senior Divisional Personnel Officer,
Southern Railway, Palghat Division,
Palghat – 673 002.

...Respondents

(By Advocate Mr.Thomas Mathew Nellimoottil)

Original Application No.180/00572/2019

P.Subramanian,
Aged 67 years,
S/o.Raghavan,
Sweeper cum Porter (Retd.),
Southern Railway, Trivandrum Division.
Residing at Pokkadavath House,
Ariyalloor P.O., Parappanangadi,
Meleppuram, Malappuram District.

...Applicant

(By Advocate Mr.Siby J Monippally)

v e r s u s

1. Union of India represented by General Manager,
Southern Railway, Park Town, Chennai – 3.
2. The Senior Divisional Personnel Officer,
Southern Railway, Trivandrum Division,
Trivandrum – 695 014.

...Respondents

(By Advocate Mr.V.A.Shaji)

Original Application No.180/00695/2019

1. C.K.Narayanan Kutty,
Aged 67 years,
S/o.C.N.Kuttappan,
Chirakkal House, Cherppu P.O.,
Trichur – 680 561.
Helper (Electrical) (Retd.),
Southern Railway, Trichur.
2. T.G.Sasidhar,
Aged 65 years,
S/o.T.S.Govindan Embranthiri,
Thekkemadam, Azhakam Road,
Kodakara P.O., Trichur – 680 684.
Senior Commercial Clerk (Retd.),
Southern Railway, Trichur.
3. L.Subramanian,
Aged 79 years,
S/o.Lakshmana Muthaliar,
Kallazhiparambu, Muthaliar Street,
Shornur, Head Server (Retd.) Erode,
Southern Railway.
4. P.S.Gireesan,
Aged 62 years,
S/o.Govindan Nair,
Parayil House, Kizhuthani,
Thannisseri P.O., Irinjalakkuda – 680 701.
Head TTE (Retd.), Southern Railway,
Ernakulam.
5. Unnikrishnan.K.V.,
Aged 76 years,
S/o.Velayudhan Nair,
Unni Nivas, Akaloor P.O.,
Ottappalam, Palakkad.
Bearer – II (Retd.),
Southern Railway, Coimbatore.

.6.

6. A.V.Mohanan,
Aged 63 years,
S/o.Velayudhan,
Kolathattil House, Pookkode,
Palakkunnam P.O., Varakkara,
Alakappa Nagar, Trichur – 680 325.
Peon (Retd.), Commercial Manager's Office,
Park Town, Southern Railway, Chennai.
7. C.T.Bhaskaran,
Aged 67 years,
S/o.Gopalan Nair,
Chakkungalthudi House,
Karalmanna, Cheruppilasserry, Palghat.
Bearer – I (Retd.), S & T Canteen, Podannur,
Southern Railway.

...Applicants

(By Advocate Mr.Siby J Monippally)

v e r s u s

1. Union of India represented by General Manager,
Southern Railway, Park Town, Chennai – 600 003.
2. The Senior Divisional Personnel Officer,
Southern Railway, Trivandrum Division,
Trivandrum – 695 014.
3. The Senior Divisional Personnel Officer,
Southern Railway, Palghat Division,
Palghat – 673 002.
4. The Chief Personnel Officer,
Southern Railway, Park Town,
Chennai – 600 003.

...Respondents

(By Advocate Mr.P.R.Sreejith)

These applications having been heard on 7th January 2020, the Tribunal on the same day delivered the following :

ORDER (O R A L)

Per : Mr.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER

Since the issues involved in all these applications are similar as also the facts, they are being disposed of by this common order.

.7.

2. In all these applications the applicants have entered into services of the Railways as Commission Bearers and were conferred the status of Salaried Commission Bearers. Later on they were all granted regularization in various Departments. They are aggrieved by the inaction of the respondents in not reckoning their service as Commission Bearers and Salaried Commission Bearers for the purpose of their service benefits including pensionary benefits, fixation, MACP and arrears thereto.

3. The reliefs sought by the applicant in O.A.No.180/198/2019 are as follows :

- a. To declare that 100% services of the applicants from the date of entry into Railway, as Commission Bearer shall be reckoned for all service benefits including pensionary benefits and MACP, arrears thereto.
- b. To direct the respondents to calculate all service benefits including the pension benefits in accordance with prayer (a).
- c. Grant such further and other reliefs as the nature and circumstance of the case may require.

4. The reliefs sought by the applicant in O.A.No.180/454/2019 are as follows :

- a. To declare that 50% services of the applicants from the date of entry into Railway (4.3.1977 to 3.3.1989) as Commission Bearer shall be reckoned for all service benefits including pensionary benefits and MACP, arrears thereto.
- b. To direct the respondents to calculate all service benefits including the pension benefits in accordance with prayer (a).
- c. Grant such further and other reliefs as the nature and circumstance of the case may require.

5. The reliefs sought by the applicant in O.A.No.180/455/2019 are as follows :

.8.

- a. To declare that 50% services of the applicants from the date of entry into Railway (2.8.1976 to 17.3.1986) as Commission Bearer shall be reckoned for all service benefits including pensionary benefits and MACP, arrears thereto.
- b. To direct the respondents to calculate all service benefits including the pension benefits in accordance with prayer (a).
- c. Grant such further and other reliefs as the nature and circumstance of the case may require.

6. The reliefs sought by the applicant in O.A.No.180/456/2019 are as follows :

- a. To declare that 100% services of the husband of the applicant from the date of entry into Railway, as Commission Bearer shall be reckoned for all service benefits including pensionary benefits and MACP, arrears thereto.
- b. To direct the respondents to calculate all service benefits including the pension benefits in accordance with prayer (a).
- c. Grant such further and other reliefs as the nature and circumstance of the case may require.

7. The reliefs sought by the applicant in O.A.No.180/457/2019 are as follows :

- a. To declare that 100% services of the applicants from the date of entry into Railway (10.7.1990 to 7.8.1998) as Commission Bearer shall be reckoned for all service benefits including pensionary benefits and MACP, arrears thereto.
- b. To direct the respondents to calculate all service benefits including the pension benefits in accordance with prayer (a).
- c. Grant such further and other reliefs as the nature and circumstance of the case may require.

8. The reliefs sought by the applicant in O.A.No.180/458/2019 are as follows :

- a. To declare that 100% services of the applicants from the date of entry into Railway (3.3.1977 to 2.3.1989) as Commission Bearer shall be reckoned for all service benefits including pensionary benefits and MACP, arrears thereto.

.9.

- b. To direct the respondents to calculate all service benefits including the pension benefits in accordance with prayer (a).
- c. Grant such further and other reliefs as the nature and circumstance of the case may require.

9. The reliefs sought by the applicant in O.A.No.180/571/2019 are as follows :

- a. To declare that 100% services of the applicants from the date of entry into Railway as Commission Bearer (28.9.1977 to 29.7.1989, 29.11.1977 to 9.8.1989 & 28.9.1977 to 29.7.1989) to regularization shall be reckoned for all service benefits including pensionary benefits, fixation, MACP and arrears thereto.
- b. To direct the respondents to calculate all service benefits including the pension benefits in accordance with prayer (a).
- c. Grant such further and other reliefs as the nature and circumstance of the case may require.

10. The reliefs sought by the applicant in O.A.No.180/572/2019 are as follows :

- a. To declare that 50% services of the applicants from the date of entry into Railway, as Commission Bearer (25.11.1976 to 14.2.1989) shall be reckoned for all service benefits including pensionary benefits and MACP, arrears thereto.
- b. To direct the respondents to calculate all service benefits including the pension benefits in accordance with prayer (a).
- c. Grant such further and other reliefs as the nature and circumstance of the case may require.

11. The reliefs sought by the applicant in O.A.No.180/695/2019 are as follows :

- a. To declare that 100% services of the applicants from the date of entry into Railway as Commission Bearer to regularization shall be reckoned for all service benefits including pensionary benefits, fixation, MACP and arrears thereto.
- b. To direct the respondents to calculate all service benefits including the pension benefits in accordance with prayer (a)

.10.

c. Grant such further and other reliefs as the nature and circumstance of the case may require.

12. The respondents have filed reply statements wherein they have stated that Commission Bearers are not eligible for counting of their period of engagement as Commission Bearers as qualifying service for the purpose of pensionary benefits under Rules 14, 24 and 31 of the Railway Services (Pension) Rules, 1993. There is no statutory provision to reckon the period of engagement of the Commission Bearer for service and pensionary benefits.

13. We have heard learned counsel for the applicant and learned counsel for the respondents and also perused the pleadings available on records. This matter has been settled by various orders of this Tribunal which were confirmed by the High Court concerned when they were challenged before it. This Tribunal as recently as in November, 2019 again passed orders on the subject in O.A.Nos.180/00289/2018 and connected cases. The relevant portion of the order reads as under :

7. The issue involved is covered by the orders of this Tribunal in O.A No.417/2013 and connected cases. In that case, an identical question was considered and this Tribunal issued a direction to the Railway Administration to count half the service rendered by the applicants in the above case as Commission Bearer/Salaried Commission Bearer before their regular absorption while calculating pension and other terminal benefits on the analogy of the provisions contained in Indian Railway Establishment Code that half the service rendered by the casual labourers who have joined on temporary status till regular absorption on the post are entitled to count the period for pensionary purpose. In the aforesaid order, this Tribunal relied upon the decisions of this Tribunal in O.A 440/2003, 311/2010 and a decision of the Madras Bench of this Tribunal in O.A 360/2011. In all these cases, the orders passed by this Tribunal were not interfered with when those orders were challenged before the High Court concerned.

8. In view of the decision of this Tribunal in O.A No.417/2013 and connected cases, this Tribunal is of the view that the applicants in these present cases are also entitled to the same benefits as their case is similar in nature. The respondents are directed to extend similar benefits to the

applicants in these cases as well. In respect of O.A Nos.200/2019, 203/2019 and 199/2019, it is contended that only gratuity alone was granted to the applicants during their first litigation. It is made clear that the respondents shall, in terms of this order, re-fix the pay and other service benefits including MACP and arrears etc thereto and same shall be reckoned for the purpose of calculating the pension and pensionary benefits also. This order shall be issued by the railway authorities within a period of three months from the date of receipt of a copy of this order. Applicants are directed to produce requisite proof of the period of engagement as Commission Bearer/Vendor before the respondents within a period of one month from the date of receipt of a copy of this order which shall be duly acted upon by the authorities.

9. These Original Applications are allowed as above. No costs.

14. In view of the position settled as above, we have no hesitation in allowing these applications by directing the respondents to extend similar benefits to the applicants in these cases as well. It is made clear that the respondents shall, in terms of this order, re-fix the pay and other service benefits including MACP and arrears etc. thereto and same shall be reckoned for the purpose of calculating pension and pensionary benefits also. This order shall be complied with by the railway authorities within a period of three months from the date of receipt of a copy of this order. Applicants are directed to produce requisite proof of the period of engagement as Commission Bearer/Vendor before the respondents within a period of one month from the date of receipt of a copy of this order which shall be duly acted upon by the authorities. There shall be no order as to costs.

(Dated this the 7th day of January 2020)

ASHISH KALIA
JUDICIAL MEMBER

E.K.BHARAT BHUSHAN
ADMINISTRATIVE MEMBER

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List of Annexures in O.A.No.180/00198/2019

1. **Annexure A-1** – A copy of the receipt issued by Southern Railway 12.5.1977.
2. **Annexure A-2** – A copy of the Service Certificate issued by Southern Railway dated 30.11.2018.
3. **Annexure R-1(a)** – A extract of Rule 14, 24 and 31 of the Railway Services (Pension) Rules, 1993.
4. **Annexure R-1(b)** – A copy of the orders of the Chairman, Railway Board under letter No.2003/TG-III/639/13/SR dated 19.12.2003.

List of Annexures in O.A.No.180/00454/2019

1. **Annexure A-1** – A copy of the receipt issued by Southern Railway 4.3.1977.
2. **Annexure A-2** – A copy of the Service Certificate issued by South Western Railway.

List of Annexures in O.A.No.180/00455/2019

1. **Annexure A-1** – A copy of the PPO issued by Southern Railway Palghat Division on implementation of 7th CPC.
2. **Annexure R-1** – A copy of the order dated 4.3.2010 issued by Sr. Divisional Personnel Officer, Palakkad.

List of Annexures in O.A.No.180/00456/2019

1. **Annexure A-1** – A copy of the Death Certificate issued by Trichur Corporation dated 23.3.2011.
2. **Annexure A-2** – A copy of the Cash Receipt issued by Southern Railway, Madras dated 13.2.1978.
3. **Annexure A-3** – A copy of the Service Certificate issued by Southern Railway Trivandrum Division.
4. **Annexure R-1** – A copy of the order of the Hon'ble Supreme Court dated 8.9.1987 in T.I.Madhavan and others v. UOI and others case.
5. **Annexure R-2** – A copy of the judgment in K.V.Baby's case reported in (1998) 9 SCC 252.
6. **Annexure R-3** – A copy of the orders of Chairman, Railway Board under letter No.2003/TG-III/639/13/SR dated 19.12.2003.

List of Annexures in O.A.No.180/00457/2019

1. **Annexure A-1** – A copy of the Security Deposit of the applicant dated 10.7.1990 issued by Southern Railway, Madras.

2. **Annexure R-1** – A copy of the order of the Hon'ble Supreme Court dated 8.9.1987 in T.I.Madhavan and others v. UOI and others case.
3. **Annexure R-2** – A copy of the judgment in K.V.Baby's case reported in (1998) 9 SCC 252.
4. **Annexure R-3** – A copy of the orders of Chairman, Railway Board under letter No.2003/TG-III/639/13/SR dated 19.12.2003.

List of Annexures in O.A.No.180/00458/2019

1. **Annexure A-1** – A copy of the relevant page of order evidencing the Security Deposit of the applicant dated 15.3.1989 issued by Southern Railway, Trivandrum Division, Trivandrum.
2. **Annexure A-2** – A copy of the Settlement Order dated 31.10.2015 issued by Southern Railway Trivandrum Division (Divisional Personnel Officer).
3. **Annexure R-1** – A copy of the order of the Hon'ble Supreme Court dated 8.9.1987 in T.I.Madhavan and others v. UOI and others case.
4. **Annexure R-2** – A copy of the judgment in K.V.Baby's case reported in (1998) 9 SCC 252.
5. **Annexure R-3** – A copy of the orders of Chairman, Railway Board under letter No.2003/TG-III/639/13/SR dated 19.12.2003.
6. **Annexure R-4** – A copy of the page 11 of the Service Register of the applicant.

List of Annexures in O.A.No.180/00571/2019

1. **Annexure A-1** – A copy of the Security Deposit Receipt dated 28.9.1977 issued by Southern Railway.
2. **Annexure A-2** – A copy of the Security Deposit Receipt dated 29.11.1977 issued by Southern Railway.
3. **Annexure A-3** – A copy of the Security Deposit Receipt dated 28.9.1977 issued by Southern Railway.
4. **Annexure R-1** – A copy of the order of the Hon'ble Supreme Court dated 8.9.1987 in T.I.Madhavan and others v. UOI and others case.
5. **Annexure R-2** – A copy of the judgment in K.V.Baby's case reported in (1998) 9 SCC 252.
6. **Annexure R-3** – A copy of the orders of Chairman, Railway Board under letter No.2003/TG-III/639/13/SR dated 19.12.2003.

7. **Annexure R-4** – A copy of the Memorandum No.V/P 353/2016/Catering/Comm.Bearer/Vol.II dated 27.9.2019.

8. **Annexure R-5** – A copy of the revised PPO being No.0604209988 dated 17.10.2019.

9. **Annexure R-6** – A copy of the delivery report downloaded from official website of India Post.

List of Annexures in O.A.No.180/00572/2019

1. **Annexure A-1** – A copy of the Receipt issued by Southern Railway 25.11.1976.

2. **Annexure R-1** – A copy of the order of the Hon'ble Supreme Court dated 8.9.1987 in T.I.Madhavan and others v. UOI and others case.

3. **Annexure R-2** – A copy of the judgment in K.V.Baby's case reported in (1998) 9 SCC 252.

4. **Annexure R-3** – A copy of the orders of Chairman, Railway Board under letter No.2003/TG-III/639/13/SR dated 19.12.2003.

5. **Annexure R-4** – A copy of the relevant pages of the applicant's Service Register.

List of Annexures in O.A.No.180/00695/2019

1. **Annexure A-1** – A copy of the Appointment Order of the 1st applicant dated 3.8.1976 issued by Southern Railway.

2. **Annexure A-2** – A copy of the Service Certificate issued by Southern Railway to the 1st applicant.

3. **Annexure A-3** – A copy of the Receipt dated 24.6.1977 issued by Southern Railway to the 2nd applicant.

4. **Annexure A-4** – A copy of the Appointment Order of the 2nd applicant dated 4.3.1989 issued by Southern Railway.

5. **Annexure A-5** – A copy of the Cash Receipt dated 27.1.1966 issued by Southern Railway to the 3rd applicant.

6. **Annexure A-6** – A copy of the Pension Payment Order of the 3rd applicant dated 1.4.2001 issued by Southern Railway.

7. **Annexure A-7** – A copy of the Service Certificate of the 4th applicant dated 27.12.2016 issued by Southern Railway.

8. **Annexure A-8** – A copy of the Pension Payment Order of the 5th applicant issued by Southern Railway.

9. Annexure A-9 – A copy of the Cash Receipt of the 6th applicant dated 26.9.1979 issued by Southern Railway.

10. Annexure A-10 – A copy of the Pension Payment Order of the 6th applicant issued by Southern Railway.

11. Annexure A-11 – A copy of the Cash Receipt of the 7th applicant dated 7.5.1977 issued by Southern Railway.

12. Annexure A-12 – A copy of the Pension Payment Order of the 7th applicant issued by Southern Railway.
