

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Original Application No. 180/00030/2020

Tuesday, this the 3rd day of November, 2020

CORAM:

Hon'ble Mr. P.Madhavan, Judicial Member
Hon'ble Mr.K.V.Eapen, Administrative Member

1. Sri.Kaladharan P
S/o.Pazhanan.V, aged 49 years
Junior Clerk (Electrical)
Southern Railway, Trivandrum Division presently on
Deputation at Railway Claims Tribunal (RCT)
D.H Road, Ernakulam having permanent
residence at Theethaan Veedu
Panayampara, Kunisseri P.O
Palakkad – 678 681
 2. Sri.C.Sekhar, S/o.Late Chellapakam, aged 46 yrs
Junior Clerk (Electrical), O/o.DEE/G/, Trivandrum
Southern Railway, Trivandrum Division residing at
House No.117, Chathanvilai
Ammanovilai P.O, Kanyakumari – 629 204
 3. Smt.J.Shyla, W/o.Abdul Rasheed, aged 47 yrs
Junior clerk (Electrical)
O/o Divisional Electrical Engineer (General)
Divisional Office, Southern Railway
Trivandrum Division residing at 'Safar'
T.C.21/2510, NCC Road, Ambalamukku
Trivandrum-5
- **Applicants**

(By Advocate : Mrs.Shameena Salahudheen)

V e r s u s

1. Union of India
Represented by the General Manager
Southern Railway, Chennai – 600 003
2. Divisional Railway Manager
Southern Railway
Trivandrum Division, Trivandrum – 691 014

3. Divisional Personnel Officer
Divisional Office, Southern Railway
Trivandrum Division, Trivandrum – 691 014
4. Divisional Electrical Engineer (General)
Divisional Office, Southern Railway
Trivandrum Division, Trivandrum – 691 014
5. Sri.V.Binulal, Technician (Bridge)
Office of the Section Engineer
Bridge, Southern Railway
Kollam – 691 001

..... **Respondents**

**(By Advocate : Mr.Thomas Mathew Nellimoottil,Sr.PCGC for R 1-4,
Mr.Sasikumar.T.K for R5)**

This application having been heard on 3.11.2020, the Tribunal on the same day delivered the following:

ORDER (ORAL)

Hon'ble Mr. P.Madhavan, Judicial Member –

The applicants, who are presently working as Junior Clerks in the Electrical Department of Southern Railway, Trivandrum Division and who are due for promotion as Senior Clerks in the next arising promotion vacancies are aggrieved by the order passed by the 3rd respondent, whereby, the 5th respondent who is a medically de-categorised technician from another department, who has been continuing in a supernumerary post, is posted as Junior Clerk in the Electrical Department, prejudicially affecting their further promotions for which they are due. The reliefs sought for in this Original Application are as follows:

“I) To delcare that the medically de-categorized

personnel's can be accommodated in bottom seniority only in a cadre while absorbing them in alternate posts.

II) To call for the records leading to Annexure A1 and set aside the same to the extent of posting the 5th respondent as Junior clerk in Electrical Department.

III) To declare that the applicants are entitled to be promoted as Senior Clerks before promoting the 5th respondent.

IV) Direct the respondents not to place respondent no.5 above the applicants.

V) Direct the respondents to duly follow IREM chapter XIII Para 1304 while posting Medically de-categorized employee.

VI) such other reliefs as may be prayed for and this Tribunal may deem fit to grant.

VII) Grant the cost of this Original Application."

2. When the matter came up for consideration, learned counsel for respondent nos.1 to 4 Adv.Mr.Thomas Mathew Nellimoottil,Sr.PCGC submits that the subject matter in this O.A has been finally decided by the Hon'ble High Court in OP(CAT) 82/2019. As such, the law has become final and the applicants cannot claim the reliefs sought. Hence the Original Application needs to be dismissed.

3. Counsel for the applicant agreed that the law has become final as the Hon'ble High Court has decided the matter in OP(CAT) 82/2019 and left it to the Tribunal to pass the necessary orders.

4. **We have examined the contentions made by the applicants in the**

Original Application and we find that it is fully covered by the orders of the Hon'ble High Court of Kerala in OP(CAT) 82/2019. We, therefore, close the Original Application. The interim order passed earlier in this Original Application also stands vacated. No costs.

(K.V.EAPEN)
ADMINISTRATIVE MEMBER

(P.MADHAVAN)
JUDICIAL MEMBER

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List of Annexures

Annexure A1 : A true copy of the communication No.V/P.11/XII/Med.Decat dated 23.12.2019

Annexure A2 : A true copy of the Communication issued by the 4th respondent to the 3rd respondent

Annexure A3 - A true copy of the representation dated 18.12.2019 submitted by the applicants

Annexure A4 - A true copy of the relevant pages of the seniority list of Ministerial staff in Electrical department

Annexure A5 - A true copy of the representation dated 2.1.2020

Annexure A6 - A true copy of the Railway Board order RBE No.112/2003 dated 30.6.03

Annexure R1 - True copy of the judgment dated 29th September 2020 in OP(CAT) No.163 of 2020.

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