

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

B.A. 416/93

Thursday, this the 1st day of September, 1994.

CORAM

HON'BLE MR S KASIPANDIAN, ADMINISTRATIVE MEMBER

HON'BLE MR P SURYAPRAKASAM, JUDICIAL MEMBER

K.J. Dilipkumar, S/o Kesavan,
Puthenvilayil Veedu,
Thengamon P.O
Quilon District- 690 522.

... Applicant

By Advocate Mr KM Anthru.

Vs.

1. The Union of India through
the General Manager,
Southern Railway, Madras-3.
2. The Chief Personnel Officer,
Southern Railway, Madras-3.
3. The Divisional Personnel Officer,
Southern Railway, Trivandrum- 14.
4. The Divisional Personnel Officer,
Southern Railway, Palghat. ... Respondents
5. P.K. Gopalakrishnan,
Sweeper-cum- Porter,
Wellington Railway Station
Palghat Division (through DPO, Palghat) ... Respondents

By Advocate Mr Thomas Mathew Nellimootil (R 1-4)
By Advocate Mr George Cherian for R-5.

ORDER

S KASIPANDIAN, ADMINISTRATIVE MEMBER

Applicant in this case claims that he was empanelled alongwith 150 others for appointments in Group D posts in various departments in Trivandrum / Palghat Divisions of the Southern Railway. His rank number in the panel was 92.

2 Learned counsel for applicant contended that some of his juniors in the panel have been given appointments, and when the applicant approached third respondent for appointment he was informed that in accordance with the order in DA 767/91,

appointments of applicant and others were kept in abeyance.

As per the directions in OA 767/91 when the respondents proposed to terminate the services of the persons appointed in the panel, they approached the Tribunal by filing applications in OA 990/92 and OA 1010/92 etc., and the termination was stayed. Thereupon, applicant filed another representation as at Annexure A2 which is still under consideration by the respondents. Learned counsel for applicant pleaded that the case of applicant is similar to the case of another applicant in OA 472/93, in which case the applicant obtained a judgment in his favour as follows:

"4. When the applicant was sent for medical examination on the basis of offer of appointment it was found that applicant was not fit to be appointed as Gangman. He was medically fit for B-2 category and considering the medical classification he can be appointed as a Khalasi. None of the judgments produced before us prevents the Railways from considering the applicant for appointment to the post of Khalasi in the departments, other than Civil Engineering Department. Hence, we do not find any justification for denying appointment to the applicant as Khalasi considering his rank and seniority in the select list, particularly when many of his juniors have been given appointment.

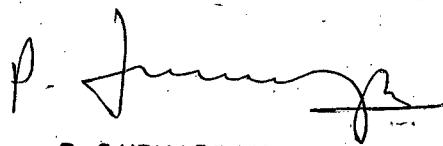
"5. Accordingly, having regard to the facts and circumstances of the case, we dispose of the application directing the third respondent to consider the claim of the applicant for appointment as Khalasi in any department other than Civil Engineering Department, if he is otherwise suitable for the post, bearing in mind the above observations. He may dispose of Annexure A2 representation."

3 Learned counsel for respondents would argue that they are still implementing the judgment of this Tribunal in OA 767/91 and that the applicant cannot be appointed so long as the retrenched casual labourers belonging to SC community are appointed. He also contended that the applicant has filed this application belatedly. Hence it is barred by limitations.

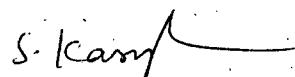
4 After having heard counsel on both sides, it is felt that since the applicant underwent medical examination and since he has been found fit in medical classification 'B-I', his case could be considered by the respondents for any post in 'B-I' category suitable to the applicant as soon as a vacancy becomes available. We, therefore, direct the respondents to consider the representation of the applicant at Annexure A2 keeping in view the directions given by this Tribunal in the precedent case quoted by the learned counsel for applicant in OA 472/93.

5 Application is disposed of with above directions.
No costs.

Dated the 1st day of September, 1994.



P. SURYAPRAKASAM
JUDICIAL MEMBER



S. KASIPANDIAN
ADMINISTRATIVE MEMBER

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LIST OF ANNEXURES

1. Annexure A2: Representation dt. 4.6.92 by applicant.

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