

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 434
~~I. A. No.~~

199 1

DATE OF DECISION 23.9.92

P. Balakrishnan Applicant (s)

Mr. P. Sivan Pillai Advocate for the Applicant (s)

Versus

Union of India through the
~~General Manager, Southern Railway~~ Respondent (s)
Madras-3 and others

Smt. Sumathi Dandapani Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. P.S. Habeeb Mohamed, Administrative Member

The Hon'ble Mr. N. Dharmadan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. To be circulated to all Benches of the Tribunal? *No*

JUDGEMENT

Mr. N. Dharmadan, Judicial Member

The only question now survives for consideration is whether the applicant is entitled to be regularly absorbed from an earlier date prior to 15.11.91.

2. According to the applicant, he was originally engaged as a casual mazdoor on 21.2.1961 and he was granted temporary status on 21.4.66. Though his service was terminated on medical ground w.e.f. 12.1.72, he was engaged in 1978. He was again granted temporary status w.e.f. 5.5.1979. Finding that he is medically unfit for the post of Gangman, his name was also included in Annexure A-6 empanelment order as item No. 111. It was also stated in Annexure A-6 that the applicant is fit for medical classification B-1, hence he could not be compelled to be absorbed as Gangman. However, he was recommended for empanelment for the purpose

of regular absorption in the Railway service in a suitable post for which he is medically fit. Later when Annexure-7 was issued absorbing persons as Colony Gangman/Drainage Gangman in the scale of Rs. 750-940, though applicant's juniors were included, he was not absorbed as Colony Gangman/Drainage Gangman. Hence, he filed a series of representations and ultimately filed this application under section 19 of the Administrative Act.

3. Respondents filed a reply stating that the applicant has only 3473 days of work in his credit as on 30.6.88 and hence his claim cannot be granted and the application is to be rejected.

4. Applicant has filed a rejoinder and produced Annexure A-9 Service Card issued by third respondent which shows that applicant ^{has} ~~xxx~~ service w.e.f. 21.10.65 and he has about 5672 days of service in his credit. If these days of service were also taken into consideration, applicant is entitled to be appointed as regular employee above many of the casual employees with lesser days of work.

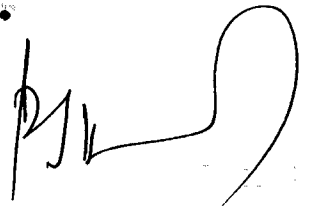
5. We have heard learned counsel on both sides. It is brought to our notice that applicant has been absorbed as a Drainage Khalasi as per letter No. V/P/II/1/Engineering Vol.III dated 15.11.91 and therefore the main relief in the application does not survive. The only relief now remains to be considered is the question of applicant's absorption from an earlier date ^{before} ~~from~~ 15.11.91 taking into consideration the total service of 5672 days covered by Annexure A-9.

6. Annexure A-9 is the Service Card issued by the third respondent. Respondents have no case that this is ^{on} bogus and false document and cannot be accepted and acted ^{on} for the purpose of counting the aggregate service. Hence, we are of the view that Annexure A-9 is to be accepted and the applicant should be given credit of service rendered by him from 21.10.65 as stated in Annexure A-9.

7. In the light of the statement contained in Annexure A-9, we direct the second respondent to consider the applicant's regular absorption from earlier date taking into consideration the total number of days of service (5672 days) as shown in Annexure A-9 and grant him relief of appointment above his juniors having less service.
8. The application is allowed to the extent indicated above.
9. There will be no order as to costs.



(N. Dharmadan)
Judicial Member



(P.S. Habeeb Mohamed)
Administrative Member

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