

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.449/07

Thursday this the 11th day of December 2008

C O R A M :

**HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER
HON'BLE Dr.K.S.SUGATHAN, ADMINISTRATIVE MEMBER**

N.Janaki,
W/o.Balakrishnan,
Packer, Southern Railway Employees Consumer
Co-operative Society Ltd. No.411, Palakkad.
Residing at Cherungattukavu, Akathethara,
Palakkad – 678 008.

...Applicant

(By Advocate Mr.T.C.Govindaswamy)

Versus

1. Union of India represented
by the Secretary to the Government of India,
Ministry of Railways, (Railway Board), New Delhi.
2. The General Manager,
Southern Railway, Headquarters Office,
Park Town P.O., Chennai – 3.
3. The Chief Personnel Officer, Southern Railway,
Park Town P.O., Chennai – 3.
4. The Senior Divisional Personnel Officer,
Southern Railway, Palghat Division, Palghat.
5. Southern Railway Employees Consumer
Co-operative Society Ltd. No.411, Palghat.
Represented by its Manager.

...Respondents

(By Advocate Mr.P.Haridas [R1-4])

This application having been heard on 11th December 2008 the
Tribunal on the same day delivered the following :-



ORDER**HON'BLE Mr. GEORGE PARACKEN, JUDICIAL MEMBER**

This is second round of litigation by the applicant before this Tribunal seeking absorption in the service of the Railways. The earlier O.A 136/06 filed by him was disposed of on 14.9.2006 (Annexure A-7). The entire facts of the case were given in detail in the said order and, therefore, we did not intend to repeat those facts in this order. The direction of this Tribunal in the said order was as under :-

"8. We have perused the circular at Annexure A-1 granting the benefit of absorption of the staff of quasi-administrative offices/organisations connected with the Railways. We find that the expressions used in Para 3 of the said communication are "those staff of quasi-administrative offices/organisations who were on roll continuously for a period of at least three years as on 1.6.1997, and are still on roll, subject to fulfillment of prescribed educational qualification required for recruitment to Group 'D' posts." Such staff should have been engaged (underlying ours) within the prescribed age limit. Reading the circular we have got a doubt, based on the expressions "staff" and "engaged", as to whether those expressions really refer to regular employees only or as to whether it will take in the entire staff working in the Co-operative Societies. Further, the circular says that the persons to be absorbed shall fulfill the prescribed educational qualification required for Group D posts but when it came to the age limit it only says that such staff should have been engaged within the prescribed age limit. Is it the age limit prescribed for appointment in the Co-operative Society in Co-operative Society Rules? If it so, the applicant is well within the age limit. On the other hand if the age limit referred in Annexure A-1 is for recruitment of Group D posts under the Railways, the position will be different. Similarly, if a view is taken that the expression "staff" referred in Annexure A-1 is one in regular employment the position will be different. We note that there is a possible difference between the expressions "staff engaged" and "staff appointed". The expression "staff engaged" is comprehensive enough to take in all sorts employment in service, regular, temporary, casual etc. What kind of service is meant for the benefit of Annexure


.3.

A-1, circular is not specified nor is discernible. Under these circumstances, inspite of the fact that the learned standing counsel submits that the circular deals only with regular appointments, we are of the view that this matter requires serious consideration at the hands of the Government itself. This is also for the reason that these matters as such has not been projected by the 3rd respondent in the communication dated Annexure R-4 seeking clarification from the Government and the further fact that the Government itself had only directed the 3rd respondent to strictly comply with the circular dated 30.5.2000 (Annexure A-1) and to take a further decision accordingly. In the circumstances the course which we adopt is to direct the very same Government which issued Annexure A-1 and R-5 to consider the case of the applicant with reference to her initial engagement as a casual labourer in 1976 and the regular appointment of the applicant with effect from 1.6.1987 keeping in mind the observations made herein above and to take a decision thereon by passing a reasoned order.

9. In this context it is also a matter for the Government and/or to the competent authority to consider the case of the applicant in view of the fact that the applicant has been continuously working in the Co-operative Society since 1976 till date, as to whether this is a fit case for relaxing the age limit as provided under Rule 115 (iv) Section 5 of IREM and to take a decision in the matter of absorption as provided in Annexure A-1. Accordingly, we direct the 1st respondent to take a decision on the two matters mentioned above in accordance with law and in the light of the observations made in this order within a period of six months from the date of receipt of a copy of this order. The decision so taken will be communicated to the applicant immediately thereafter.

10. The OA is disposed of as above. In the circumstances, parties will bear their respective costs."

2. In Para 9 of the above order, there was a specific direction to the respondents to consider the case of the applicant for relaxation of age in terms of Rule 115 (iv) Section 5 of IREM which is as under :-




.4.

" for direct recruitment to all Group 'C' and 'D' vacancies, serving employees who have put in three years continuous service in the Railways will be given age relaxation to the extent of service put in, subject to upper age limit of 35 years not being exceeded. Similar age concession will be applicable to such of the casual labourer/substitutes as have put in three years of continuous or in broken spells."

3. In the impugned order the Railway Board has not considered the question, whether in the facts and circumstances of the applicant's case she can be given age relaxation in terms of the aforesaid provisions of IREM. We, therefore, direct the Railway Board to consider the case of the applicant on the specific point whether age relaxation can be granted to her in terms of Rule 115 (iv) Section 5 of IREM. They shall take a decision in this matter and communicate the same to the applicant within a period of three months from the date of receipt of a copy of this order. With the above direction, this OA is disposed of. There shall be no order as to costs.

(Dated this the 11th day of December 2008)


K.S.SUGATHAN
ADMINISTRATIVE MEMBER

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GEORGE PARACKEN
JUDICIAL MEMBER