

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.452/08

Thursday this the 20th day of August 2009

C O R A M :

HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER

HON'BLE Mr.K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER

1. A.Balan,
S/o.Appu,
Working as Tinsmith Grade II,
Southern Railway, Palghat.
2. M.Dinakaran,
S/o.Manickan,
Working as Carpenter Grade I,
Southern Railway, Palghat.Applicants

(By Advocate Mr.Varghese Prem)

V e r s u s

1. Union of India represented by General Manager,
Southern Railway, Chennai – 3.
2. Senior Divisional Personnel Officer,
Southern Railway, Palghat.Respondents

(By Advocate Mr.Thomas Mathew Nellimoottil)

This application having been heard on 20th August 2009 the Tribunal on the same day delivered the following :-

O R D E R

HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER

This case was listed for hearing on several days after it was admitted on 8.1.2009. When the matter was listed on 25.6.2009, counsel for the applicant was not present and he was represented by a proxy counsel. On 9.7.2009 and 15.7.2009, none was present on behalf of the applicant. On



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20.7.2009 the counsel for the applicant was again represented by a proxy counsel and the matter was finally adjourned to 11.8.2009 on which date also none was present on behalf of the applicant. Today also none was present on behalf of the applicant.

2. In view of the above facts and circumstances of the case, we are of the considered view that neither the applicant nor his counsel is interested in prosecuting the case. We, therefore, dismiss this O.A for default. There shall be no order as to costs.

(Dated this the 20th day of August 2009)


K.GEORGE JOSEPH
ADMINISTRATIVE MEMBER


GEORGE PARACKEN
JUDICIAL MEMBER

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**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.452/08

Tuesday this the 14th day of September 2010

C O R A M :

**HON'BLE Mr.JUSTICE K.THANKAPPAN, JUDICIAL MEMBER
HON'BLE Mr.K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

1. A.Balan,
S/o.Appu,
Working as Tinsmith Grade II,
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1. Union of India represented by General Manager,
Southern Railway, Chennai – 3.
2. Senior Divisional Personnel Officer,
Southern Railway, Palghat.Respondents

(By Advocate Mr.Thomas Mathew Nellimoottil)

This application having been heard on 14th September 2010 the Tribunal on the same day delivered the following :-

O R D E R

HON'BLE Mr.JUSTICE K.THANKAPPAN, JUDICIAL MEMBER

Challenging the Annexure A-1 order dated 26.5.2008, the applicants filed this Original Application and prayed for a direction to the respondents to protect their pay.

2. The Original Application has been admitted and notice has been

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ordered to the respondents. In response to the notice issued from this Tribunal, a reply statement has also been filed on behalf of the respondents. The stand taken in the reply statement is that since the applicants are working as Tinsmith Grade II and Carpenter Grade I, an ex-cadre post, they have to be repatriated to their original parent cadre. Further stand taken in the reply statement is that though the applicants are working in ex-cadre post, they are entitled for promotion. But that by itself may not be a ground for continuation of their post on ex-cadre basis as they were appointed for a period. Further, even the continuation of their ex-cadre post beyond the period by itself is not a ground for continuation or regularization in the said post. The respondents have also relied on Annexure R-4 order dated 15.10.2001 in which it is stated that it has been already decided by the department that the tenure for the period of ex-cadre post is fixed as four years and even though the period is extendable that by itself is not a reason to regularise the ex-cadre post forever.

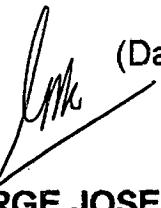
3. We have considered the averments in the Original Application and documents filed along with the Original Application. We have also heard Shri.Thomas Mathew Nellimoottil counsel appearing for the respondents. The trump card of the applicants for filing the Original Application is that 1st applicant is working as Tinsmith Grade II with effect from 1983 and the 2nd applicant is also continuing in the post of Carpenter Grade I. Since they are working from years back and since their ex cadre period has been extended they shall be allowed to continue in the post. The further case of the applicants is that they are qualified to be appointed in the post of



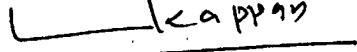
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Tinsmith Grade II and Carpenter Grade I. If so, they may be allowed to continue in the said post. The applicants also relied on the order passed by this Tribunal in O.A.No.884/94 and judgment of the Hon'ble High Court of Kerala in O.P.No.16918/02.

4. We have considered the claim of the applicants and also orders referred to in the Original Application. Order passed in O.A.No.884/94 and judgment passed in O.P.No.16918/02 are different and not applicable with the present application and the facts narrated in the present application. It is the case of the respondents as evidenced from the reply statement that once an employee is appointed on a ex-cadre post he cannot continue beyond the period of the ex-cadre post and the continuation of the ex-cadre post even beyond the period by itself is not a reason for regularizing such employee in the said ex-cadre post. Further, it is evidenced from the reply statement that both the applicants were working in some other technical grade in the Railway Department from where they were deputed and appointed on ex-cadre post. If the ex-cadre period is not extended they have to be repatriated. If so, the Annexure A-1 requires no interference by this Tribunal. Accordingly, this Original Application stands dismissed.


(Dated this the 14th day of September 2010)

**K.GEORGE JOSEPH
ADMINISTRATIVE MEMBER**


**JUSTICE K.THANKAPPAN
JUDICIAL MEMBER**

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