

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.470/09

Friday this the 12th day of March 2010

C O R A M :

**HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER
HON'BLE Ms.K.NOORJEHAN, ADMINISTRATIVE MEMBER**

1. C.Mani,
S/o.Cheria Pillai,
Ex-Casual Labourer,
Southern Railway, Trivandrum Division.
Residing at Thiruvinapazhanji Vilai,
Keezhkulam PO, Kanyakumari District.
2. S.Sasikumar,
S/o.Swamykannu Nadar,
Ex-Casual Labourer,
Southern Railway, Trivandrum Division.
Residing at Kozhithottathu Vilai Veedu,
Pazhavar, Kulithurai PO, Kanyakumari District.
3. G.Pushkaran,
S/o.Gopala Pillai,
Ex-Casual Labourer,
Southern Railway, Trivandrum Division.
Residing at Krishna Vilasom, Parthibapuram,
Pudukkadal Post, Kanyakumari District.Applicants

(By Advocate Mr.T.C.Govindaswamy)

V e r s u s

1. Union of India represented by the General Manager,
Southern Railway, Headquarters Office,
Park Town PO, Chennai – 3.
2. The Divisional Railway Manager,
Southern Railway, Trivandrum Division,
Trivandrum – 14.

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3. The Divisional Personnel Officer,
Southern Railway, Trivandrum Division,
Trivandrum – 14. ...Respondents

(By Advocate Mr.P.Haridas)

This application having been heard on 12th March 2010 the Tribunal on the same day delivered the following :-

ORDER

HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER

The applicants are retrenched casual labourers of the Southern Railway, Trivandrum. Their names in the list of retrenched casual labourers are at Sl.Nos.2063, 2286 and 1944 respectively. According to them, they have put in total of 669.5, 419 and 954 days respectively and in proof thereof they have produced the Annexure A-1 series of Casual Labour Service Cards issued by the competent superior officers. When the respondents invited such retrenched casual labourers in batches in the year 2003 for considering them for absorption, the applicants have also reported to the authorities and handed over all the relevant documents including the Casual Labour Service Cards. However, the respondents have not absorbed them so far.

2. The contention of the respondents is that the applicants have crossed the prescribed age limit of 45 years as on 1.1.2003 and, therefore, they have not been absorbed.

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3. We have heard Shri.Mohanakumar on behalf of Shri.T.C.Govindaswamy for the applicant and Ms.Simla on behalf of Shri.P.Haridas for the respondents. The question of applicability of age limit for absorption of casual labourers has already been considered by this Tribunal in OA 271/06 and connected cases decided on 14.3.2007. According to the said order, no age limit can be imposed on such casual labourers for their absorption. The operative part of the said order was as under :-

35 In the result, I quash Ministry of Railways Letter No E(NG)-II/99/CL/19 dated 28.2.2001 and the letter of even No dated 20.9.2001 to the extent it relates to the retrenched casual labour placed in the merged seniority list tracing its origin from the directions in Inder Pal Yadav's case and as prepared consequent to this Tribunal's order in OA 1706/94 and direct that the applicants in these OAs be considered for regular absorption in the existing vacancies having regard to the seniority in the above mentioned merged list and without applying any age limit subject to medical fitness and other conditions for such absorption being fulfilled. The appointments made so far shall not be disturbed. The respondents shall also endeavour to exhaust this list as early as possible while filling up future vacancies so that this category are not again driven to knock at the doors of the court for justice. Appropriate orders shall be passed and communicated to the applicants within a period of four months. OAs are allowed. No costs.

4. However, the respondents have carried the aforesaid order of this Tribunal before the Hon'ble High Court of Kerala in WPC No.21777/07. The High Court modified the aforesaid order of this Tribunal to the extent that the age limit will not be applicable in the case of those retrenched casual labourers who have put in a minimum period of 360 days of casual

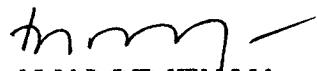


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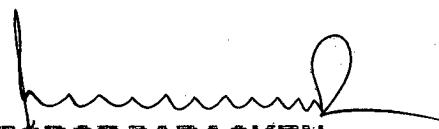
service. Undoubtedly, the applicants have got more than 360 days of casual service at their credit. The only reason given by the respondents for not absorbing them was that they have crossed the prescribed age limit of 45 years as on 1.1.2003. In view of the aforesaid order of this Tribunal as modified by the High Court, such objection is no more relevant.

5. We, therefore, direct the respondents to complete the formalities of medical examination etc. of the applicants immediately, if not already done, and absorb them, if they are found suitable, at par with their juniors in the list of retrenched casual labourers maintained by the respondents. However, it is made clear that the applicants will not be entitled for any backwages. There shall be no order as to costs.

(Dated this the 12th day of March 2010)


K.NOORJEHAN
ADMINISTRATIVE MEMBER

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GEORGE PARACKEN
JUDICIAL MEMBER