

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. 1905/97, O.A. 1193/97, O.A. 1194/97
O.A. 1196/97, O.A. 1217/97, O.A. 1600/97, O.A. 1624/97
O.A. 1664/97, O.A. 1667/97, O.A. 50/98 and O.A. 54/98

Wednesday, this the 30th day of August, 2000

CORAM:

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN

HON'BLE MR V.K.MAJOTRA, ADMINISTRATIVE MEMBER

O.A. 905/97

1. P. Babu,
Sarang under
Executive Engineer(Construction),
Southern Railway, Quilon.
2. G. Sasidharan,
Sarang under
Executive Engineer(Construction),
Southern Railway, Quilon.
3. K. Moideen Koya,
Sarang under
Executive Engineer(Construction),
Southern Railway, Quilon.

- Applicants

By Advocate Mr TC Govindaswamy

Vs

1. Union of India through
the Secretary to Government of India,
Ministry of Railways,
Rail Bhavan, New Delhi.
2. General Manager,
Southern Railway,
Headquarters Office,
Park Town.P.O.
Chennai-3.
3. Chief Engineer(Construction),
Southern Railway,
Egmore, Chennai.
4. Divisional Railway Manager,
Southern Railway,
Trivandrum Division,
Trivandrum.
5. Senior Divisional Personnel Officer,
Southern Railway,
Trivandrum Division, Trivandrum-14. - Respondents

By Advocate Mrs Sumathi Dandapani

O.A.1193/97

P.Aboobacker,
Chief Serang
Under Deputy Chief Engineer,
Construction, Southern Railway,
Calicut. - Applicant

By Advocate Mr TC Govindaswamy

Vs

1. Union of India through the Secretary to Government of India Ministry of Railways, Rail Bhavan, New Delhi.
2. The General Manager, Southern Railway, Headquarters Office, Park Town.P.O. Madras-3.
3. The Chief Engineer, Construction, Southern Railway, Egmore, Chennai-8.
4. The Chief Personnel Officer, Southern Railway, Headquarters Office, Park Town.P.O. Chennai-3.
5. The Senior Divisional Personnel Officer, Southern Railway, Trivandrum Division, Trivandrum-14.
6. The Chief Project Manager, Southern Railway, Construction, - Respondents Egmore, Chennai-8.

(By Advocate Mrs Sumathi Dandapani)

O.A.1194/97

E.C.Poulose,
Chief Serang,
Office of the Depot Store Keeper,
Southern Railway, Construction,
Ernakulam Junction. - Applicant

By Advocate Mr TC Govindaswamy

Vs

1. Union of India through the Secretary to Government of India, Ministry of Railways, Rail Bhavan, New Delhi.
2. The General Manager, Southern Railway, Headquarters Office, Park Town.P.O. Madras-3.

3. The Chief Engineer,
Construction, Southern Railway,
Egmore, Chennai-8.
4. The Chief Personnel Officer,
Southern Railway,
Headquarters Office,
Park Town.P.O., Chennai-3.
5. The Senior Divisional Personnel Officer,
Southern Railway,
Trivandrum Division,
Trivandrum-14.
6. The Chief Project Manager,
Southern Railway, Construction,
Egmore, Chennai-8.

- Respondents

By Advocate Mrs Sumathi Dandapani

O.A.1196/97

N K. Ahmedkutty,
Serang,
under Deputy Engineer,
Construction, Southern Railway,
Calicut.

- Applicant

By Advocate Mr TC Govindaswamy

Vs

1. Union of India through
the Secretary to Government of India,
Ministry of Railways,
Rail Bhavan, New Delhi.
2. The General Manager,
Southern Railway,
Headquarters Office,
Park Town.P.O.
Madras-3.
3. The Chief Engineer,
Construction, Southern Railway,
Egmore, Chennai-8.
4. The Chief Personnel Officer,
Southern Railway,
Headquarters Office,
Park Town.P.O., Madras-3.
5. The Senior Divisional Personnel Officer,
Southern Railway, Trivandrum Division,
Trivandrum-14.
6. The Deputy Chief Engineer/Construction,
Southern Railway, Calicut.

- Respondents

By Advocate Mrs Sumathi Dandapani

O.A.1217/97

K.Gopinadhan,
Serang,
under Deputy Chief Engineer,
Construction,
Southern Railway, Calicut. - Applicant

By Advocate Mr TC Govindaswamy

Vs

1. Union of India through
the Secretary to Government of India,
Ministry of Railways,
Rail Bhavan, New Delhi.
2. The General Manager,
Southern Railway,
Headquarters Office,
Park Town.P.O.
Madras-3.
3. The Chief Engineer/Construction,
Southern Railway,
Egmore, Chennai-8.
4. The Chief Personnel Officer,
Southern Railway,
Headquarters Office,
Park Town.P.O.
Chennai-13.
5. The Senior Divisional Personnel Officer,
Southern Railway,
Trivandrum Division, Trivandrum-14.
6. The Deputy Chief Engineer,
Construction,
Southern Railway, Calicut. - Respondents

By Advocate Mrs Sumathi Dandapani

O.A.1600/97

P.Ramachandran Nair,
Mistry,
under the Depot Store Manager,
Construction, Southern Railway,
Ernakulam. - Applicant

By Advocate Mr TC Govindaswamy

Vs.

1. The Union of India
represented by the
Secretary to Government of India,
Ministry of Railways,
Rail Bhavan, New Delhi.
2. General Manager,
Southern Railway, Headquarters Office,
Park Town.P.O., Madras-3.

3. The Chief Personnel Officer,
Southern Railway,
Headquarters Office,
Park Town.P.O.
Madras-3.
4. The Chief Engineer/Construction,
Southern Railway,
Egmore, Madras-8.
5. The Executive Engineer/Construction,
Southern Railway,
Ernakulam Division,
Ernakulam.
6. The Senior Divisional Personnel Officer,
Southern Railway,
Trivandrum Division, Trivandrum-14. - Respondents

By Advocate Mrs Sumathi Dandapani

O.A.1624/97

1. T. Ramankutty,
Welder (Skilled),
Southern Railway,
Office of the Section Engineer,
Works/Construction/Trichur.
2. N. Chandran
Mason, Southern Railway,
Office of the Section Engineer,
Works/Construction/Trichur.
3. P.T. Jose, Mate,
Southern Railway,
Office of the Section Engineer,
Works/Construction/Trichur. - Applicants

(By Advocate Shri T.C. Govindaswamy)

Vs.

1. Union of India represented by the
Secretary to the Government of India,
Ministry of Railways,
Rail Bhavan, New Delhi.
2. The General Manager,
Southern Railway,
Headquarters Office,
Park Town P.O.,
Madras-3.
3. The Chief Personnel Officer,
Southern Railway,
Headquarters Office,
Park Town P.O., Madras-3.
4. The Chief Engineer,
Construction,
Southern Railway,
Madras Egmore,
Madras08.

5. The Executive Engineer,
Construction,
Southern Railway,
Guruvayoor.
6. The Senior Divisional Personnel Officer,
Southern Railway,
Trivandrum Division,
Trivandrum-14.
7. The Chief Project Manager,
Guage Conversion,
Southern Railway,
Construction,
Madras Egmore,
Madras-8.

- Respondents

(By Advocate Smt. Sumathi Dandapani)

O.A. 1664/97:

P.J. Joseph,
Ad hoc Mistry/Mate,
Office of the Deputy Chief Engineer,
Construction, Southern Railway,
Trivandrum.

- Applicant

(By Advocate Shri T.C. Govindaswamy)

Vs.

1. Union of India through the
Secretary to the Government of India,
Ministry of Railways,
Rail Bhavan, New Delhi.
2. The General Manager,
Southern Railway,
Headquarters Office,
Park Town P.O.,
Madras-3.
3. The Chief Engineer,
Construction,
Southern Railway,
Egmore, Chennai-8.
4. Deputy Chief Engineer,
Construction,
Southern Railway,
Trivandrum.
5. The Senior Divisional Personnel Officer,
Southern Railway,
Construction,
Egmore, Chennai-8.

- Respondents

(By Advocate Smt. Sumathi Dandapani)

O.A. 1667/97:

V.L. Ouseph,
Ad hoc Mistry/Mate,
Office of the Section Engineer, Works,
Southern Railway, Construction, Trichur. - Applicant

(By Advocate Shri T.C. Govindaswamy)

Vs.

1. The Union of India through the Secretary to the Government of India, Ministry of Railways, Rail Bhavan, New Delhi.
2. The General Manager, Southern Railway, Headquarters Office, Park Town P.O., Chennai-3.
3. The Chief Engineer, Construction, Southern Railway, Egmore, Chennai-8.
4. The Executive Engineer, Construction, Southern Railway, Guruvayoor.
5. The Senior Divisional Personnel Officer, Southern Railway, Trivandrum Division, Trivandrum -14.
6. The Chief Project Manager, Southern Railway, Construction, Egmore, Chennai-8. - Respondents

(By Advocate Smt. Sumathi Dandapani)

O.A. 50/98:

1. M.J. George Bernard,
Ad hoc Mistry/Mate,
Southern Railway,
Office of the Executive Engineer,
Construction, Ernakulam Junction.
2. C.P. Sethumadhavan,
Ad hoc Mistry/Mate,
Southern Railway,
Office of the Executive Engineer,
Construction,
Ernakulam Junction. - Applicants

(By Advocate Shri T.C. Govindaswamy)

Vs.

1. Union of India through the Secretary to the Government of India, Ministry of Railways, Rail Bhavan, New Delhi.

2. The General Manager,
Southern Railway,
Headquarters Office,
Park Town P.O., Chennai-3.
3. The Chief Engineer, Construction,
Southern Railway,
Egmore, Chennai-8.
4. The Executive Engineer,
Construction,
Southern Railway,
Ernakulam Junction, Ernakulam.
5. The Senior Divisional Personnel Officer,
Southern Railway,
Trivandrum Division,
Trivandrum-14.
6. The Chief Project Manager,
Southern Railway,
Construction,
Egmore, Chennai-8.

- Respondents

(By Advocate Smt. Sumathi Dandapani)

O.A. 54/98:

1. K.K. Janaki
W/o K.V. Raghavan,
Ad hoc Mate,
Office of the Section Engineer,
(Works), Southern Railway,
Construction, Trichur.
2. H. Jery Nigli,
Ad hoc Mate,
Office of the Section Engineer,
(Works), Southern Railway,
Construction, Trichur.
3. K.A. Daisy,
W/o Jose,
Ad hoc Mate,
Office of the Section Engineer,
(Works) Southern Railway,
Construction,
Trichur.

- Applicants

(By Advocate Shri T.C. Govindaswamy)

vs.

1. Union of India represented by the Secretary to the Government of India, Ministry of Railways, Rail Bhavan, New Delhi.
2. The General Manager, Southern Railway, Headquarters Office, Park Town P.O., Chennai -3.
3. The Chief Engineer, Construction, Southern Railway, Chennai-8.
4. The Executive Engineer, Construction, Southern Railway, Guruvayur.
5. The Senior Divisional Personnel Officer, Southern Railway, Trivandrum Division, Trivandrum -14.

- Respondents

(By Advocate Smt. Sumathi Dandapani)

The applications having been heard on 30th August 2000, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

The issue involved in all these cases are identical and the facts are similar. Therefore, all these original Applications are disposed of by this common order.

2. The applicants in all these applications have been working in Group 'C' in the scales of pay either 950-1500 or 1200-1800 or 1320-2040. Their claim is that they are entitled to be absorbed in the relevant grades in Group 'C'. Their grievance is that they have been, by the impugned orders dated 10/11.3.97 empanelled as Gangman, but retained in the construction organisation on the self same job that they were doing prior to the empanelment reducing their pay and pay scale. The applicants contend that their absorption in Group 'D' post and the reduction of their scales and pay are illegal, unjustified and not according to the rules. Aggrieved the applicants have filed these applications to have their order of empanelment as also the reduction of their pay set aside.

3. The respondents have filed a detailed reply statement in all these cases and the contentions are almost identical. It has been contended that the applicants could not be empanelled on Group 'C' grade for want of vacancies in the quota and that the reduction of their pay on regularisation was in accordance with the Railway Board's letter dated 5.11.76 (Annexure R-1). According to the respondents therefore, the applicants do not have a valid and legitimate cause of action.

4. We have gone through the pleadings and the documents

brought on record and have heard Shri TC Govindaswamy, learned counsel appearing for the applicant as also Smt. Sumathi Dandapani, learned Standing Counsel for the respondents. As observed earlier, all the applicants were empanelled on 10/11.3.1997. The Railway Board has on 9.4.97 issued an order regarding regularisation of casual labourers working in Group 'C' scales. The operative part of the order in A-3 in O.A. 54/98 reads as follows:

"The question of regularisation of the casual labour working in Group 'C' scales has been under consideration of the Board. After careful consideration of the matter, Board have decided that the regularisation of casual labour working in Group 'C' scales may be done on the following lines:

- i) All casual labour/substitutes in Group 'C' scales whether they are Diploma Holders or have other qualifications, may be given a chance to appear in examinations conducted by RRB or the Railways for posts as per their suitability and qualification without any age bar.
- ii) Notwithstanding (i) above, such of the casual labour in Group 'C' scales as are presently entitled for absorption as skilled artisans against 25% of the promotion quota may continue to be considered for absorption as such.
- iii). Notwithstanding (i) and (ii) above, all casual labour may continue to be considered for absorption in Group 'D' on the basis of the number of days put in as casual labour in respective units."

5. Since the applicants were empanelled prior to the issue of this order, we are of the considered view that the respondents did not give the benefit of the order of the Railway Board dated 9.4.97 to them. In terms of the said

order all the casual labourer/substitutes in Group 'C' were entitled to be given a chance to appear in the examinations conducted by the Railway Recruitment Board or the Railways for the post as per their suitability and qualification without any age bar. The contention of the respondents that the applicants could not be absorbed in Group 'C' against the decasualisation vacancies is not an answer to the claim of the applicants because according to the Railway Board's letter dated 9.4.97 their entitlement for being given a chance for absorption against a Group 'C' post as per their suitability and qualification is not only confined to the vacancies in the quota under decasualisation scheme but also towards the recruitment by the Railway Recruitment Board and the Railways also. Obviously, this benefit available to the applicants as casual labourers working in Group 'C' grade has not been made available to them. Respondents are therefore, liable to give the applicants the benefit of this order.

6. Regarding the reduction in the scale of pay of the applicants while they were retained in the Construction Organisation on the self same work they were performing just for the reason that they were regularised as Gangman is not covered by any rule or instruction. The Railway Board's order dated 5.11.76 (Annexure R-1 in O.A.54/98) reads as follows:

" With reference to this Ministry's letter No. E(NG)64/CL/25 dated 4.9.65, it is clarified that the pay of casual labour with temporary status when absorbed in regular Class-IV posts will be fixed as follows:-

- i). those who have hitherto been drawing pay in identical grades, will have their pay fixed with reference to the last pay drawn and
- ii. those who have been working in semi-skilled and skilled grades but are absorbed in regular Class IV unskilled grades will have the pay fixed by granting increments in the unskilled grade with reference to their earlier service as casual labour in higher or equivalent grades.

(This disposes of SC Rly's letter No. P(R)407/III dated 14.6.76)

This issues in consultation with the Finance Directorate of the Ministry of Railways."

7. A careful scrutiny of the above order would show that their pay need be fixed only on a regular post according to the instructions. While the applicants are retained in the construction organisation for the self same work they were performing, we are of the considered view that the reduction is uncalled for and unjustified and will amount to violation of the principles of equal pay for equal work. Just because of the applicants' status changed from casual labour to regular employee they cannot be denied the wages for the work that they have been doing and are continuing to do. The impugned orders in these cases are, therefore, liable to be set aside.

8. In the result, all these applications are disposed of with the following declaration and directions:

- i. The applicants in all these cases shall be considered for regularisation in Group 'C' according to their qualification and entitlement giving them the benefit of Railway Board's order dated 9.4.97.

ii. So long as the applicants are retained in the construction organisation for performing the work which they have been doing prior to their empanelment by order dated 10/11.3.97 they shall be continued to be paid at the same rate as they were being paid till that date. Respondents shall consider the regularisation of the applicants in Group 'C' giving them the benefit of the ailway Board's circular dated 9.4.97 as expeditiously as possible and till the resultant orders are issued they shall not be disturbed from the present posting. No costs.

Dated the 30th August 2000.

Sd/-
(V.K.MAJOTRA)
ADMINISTRATIVE MEMBER

Sd/-
(A.V.HARIDASAN)
VICE CHAIRMAN

TV

List of Annexures referred to in the order:

Annexure R-1 in O.A. 54/98: True copy of Railway Board's letter No. P(RT) 407/P/Vol.XII dated 12.11.76.

Annexure A-3 in O.A. 54/98: A true copy of the Order No. E(NG)II/97/RC-3/4 dated 9.4.97 issued by the Railway Board.

CERTIFIED TRUE COPY
Date

Deputy Registrar