

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 491 of 2011

Monday, this the 28th day of January, 2013

CORAM:

**HON'BLE Mr. JUSTICE P.R. RAMAN, JUDICIAL MEMBER
HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

K. Ravichandran,
Aged 45 years, S/o. K. Kittan,
Junior Engineer Gr.I/Permanent Way/
Southern Railway/Kollengode/Palghat Division,
Permanent Address : No. 8/12, East Street,
Thudupathy P.O, Perundurai Taluk, Erode Distt. Applicant.

(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 P.O,
Chennai – 600 003
2. The Chief Personnel Officer,
Southern Railway, Headquarters Office,
Park Town P.O, Chennai – 600 003
3. The Chief Traction Engineer,
Southern Railway, Headquarters Office,
Park Town P.O, Chennai – 600 003 Respondents.

(By Advocate Mr. Thomas Mathew Nellimoottil)

This application having been heard on 18.01.2013, the Tribunal on 28.01.13 delivered the following:

ORDER

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

The applicant is presently working as Junior Engineer Gr.I/ Permanent Way, Southern Railway, Kollengode, Palghat Division. He was considered



for promotion to the post of Section Engineer/Permanent Way. The post of Section Engineer/Permanent Way is to be filled up by considering the suitability of the officers with the prescribed benchmark of 8 out of 15 marks for the last 03 years based on confidential reports. He could not secure the prescribed benchmark 08 out of 15. So he was declared unsuitable for promotion. His representation for promotion was rejected. Aggrieved, he has filed this O.A for the following reliefs:-

- (i) Call for the records leading to the issue of Annexure A-5 and quash the same to the extent it relates to the applicant;
- (ii) Call for the records leading to the issue of Annexure A-9 and quash the same;
- (iii) Declare that the applicant is entitled to be considered for promotion as Section Engineer/P.Way against the vacancies for which A5 order has been issued, ignoring the ACR for the year 2008 and also by considering the ACR grading of 'Very Good' for the year 2010 and direct the respondents to consider and promote the applicant as Section Engineer/P.Way accordingly;
- (iv) Direct the respondents to grant the applicant the benefit of promotion as Section Engineer/P.Way from the date from which those in A5 have been promoted with all consequential benefits including arrears of pay and allowances arising therefrom;
- (v) Direct the respondents to pay interest @ 9% per annum on the arrears of pay and allowances arising as a result of the reliefs prayed for above;
- (vi) Award costs of and incidental to this application;
- (vii) Pass such other orders or directions as deemed just fit and necessary in the facts and circumstances of the case.

2. The applicant contended that the grading of his performance for the year 2008 as 'Below Average' was not communicated to him. Therefore, he was denied an opportunity to submit his representation against it. Denial of opportunity to the applicant and the consequent finding that he

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is unsuitable for promotion as Section Engineer/P.Way are opposed to the principles of natural justice. Opportunity to represent against the grading given to him in his ACR was denied arbitrarily and unjustly and in a manner opposed to Annexure A-4 order of the Railway Board. He was found suitable for promotion on ad hoc basis as Section Engineer/P.Way during December, 2008 and was promoted as such immediately thereafter. In the year 2010, the reviewing as well as accepting officers have held that various aspects of the applicant as 'Very Good'. If that was taken into consideration, he would get the benchmark of 8.

3. The respondents in their reply statement submitted that the applicant had secured only 07 marks out of 15 marks vide Annexure A-6. The assessment report as 'Below Average' of the applicant for the year ending March, 2008 was communicated to him vide letter dated 07.07.2008 at Annexure R-2 and the same was acknowledged by him on 21.07.2008. He neither submitted appeal nor represented within the prescribed time limit against the assessment of 'Below Average' in the ACR. Hence the assessment became final. The grading for the year ending March, 2010 against column 36 of Page 3 of the Annual Performance and Appraisal Report in favour of the applicant by the reporting officer as 'Good' which has been agreed to and accepted by the reviewing authority as well as the accepting authority. The grading has not been upgraded by the reviewing authority or the accepting authority. Therefore, only the grading 'Good' was taken for consideration for promotion to the post of Section Engineer/ P.Way. The ad hoc promotion as Section Engineer/P.Way granted to the applicant was only a local arrangement. It was granted for 04 months from 03.03.2009, but was

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terminated before completion of the four month period.

4. We have heard Mr. T.C. Govindaswamy, learned counsel for the applicant and Mr. Thomas Mathew Nellimoottil, learned counsel for the respondents and perused the records.

5. The contention of the applicant that he was not given an opportunity to represent against the assessment of the performance for the year 2008 as 'Below Average' is not substantiated. In fact, he was given an opportunity to represent against the said assessment as early as July, 2008. He failed to submit any appeal or representation against the same. Hence it is not correct on his part to state that he was denied an opportunity to represent against the adverse grading in his ACR. After assessing certain aspects of the performance of the applicant as 'Very Good' for the year March, 2010, the grading given to him by the reporting officer and agreed to by the reviewing authority as well as the accepting authority is 'Good' only. Hence only the grading of 'Good' is to be taken for the purpose of considering him for promotion to the post of Section Engineer/P.Way. His appointment as Section Engineer/P.Way on ad hoc basis on a local arrangement lasting less than 04 months is of no consequence as far as regular promotion as Section Engineer/P.Way is concerned. The applicant was not promoted to the post of Section Engineer/P.Way as he failed to secure the prescribed benchmark. We do not find any arbitrariness, discrimination or illegality on the part of the respondents in declaring him unsuitable for promotion to the post of Section Engineer/P.Way.

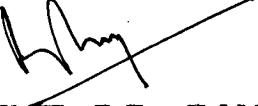
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6. Devoid of merit, the O.A is dismissed with no order as to costs.

(Dated, the 28th January, 2013)



K.GEORGE JOSEPH
ADMINISTRATIVE MEMBER



JUSTICE P.R. RAMAN
JUDICIAL MEMBER

cvr.