

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.491/95

Monday, this the 9th day of December, 1996.

C O R A M

HON'BLE MR PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER
HON'BLE MR AM SIVADAS, JUDICIAL MEMBER

....

1. S Lathika, Goods Shed Porter,
Southern Railway,
Ernakulam Goods Railway Station,
Ernakulam.
2. RT Bhushiramani, Parcel Porter,
Southern Railway, Quilon.
3. K Jayakumari, Traffic Porter,
Southern Railway,
Trivandrum--14.

....Applicants

By Advocate Shri TCG Swamy.

vs

1. Union of India through the General Manager,
Southern Railway, Madras--3.
2. The Divisional Personnel Officer,
Southern Railway, Trivandrum Division,
Trivandrum--14.
3. K Krishnakumari,
Senior Telephone Operator,
Divisional Office, Southern Railway,
Trivandrum.
4. Vasanthakumari, Junior Clerk,
Personnel Branch, Southern Railway,
Trivandrum.

....Respondents

R.1 & 2 by Advocate Shri Mathews J Nedumpara.

The application having been heard on 3rd December, 1996,
the Tribunal delivered the following on 9th December, 96:

O R D E R

PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

Applicants were initially engaged as literate casual labourers by the Southern Railway on various dates in 1978 and 1979. They were retrenched on 30.6.81 and according to applicants, their juniors were retained. Applicants filed Writ

contd.

Petitions before the High Court of Kerala challenging their termination and seeking regularisation along with their juniors. The Writ Petitions were transferred to the Tribunal and were disposed of finally by A2 order in TA No.34/87 and TA No.312/86. The Tribunal directed consideration of the claim for regularisation and also directed that the names of applicants be included in a list of employees to be regularised with dates of their original entry in service and their length of service without any claim for any other benefits. Thereafter, on 21.3.90 by A3, A4 and A5 orders, applicants were engaged as seasonal water carriers for a period of three months. Applicants approached the Tribunal in OA 409/90 and the Tribunal noticed the fact that applicants had been absorbed in Group D posts in Traffic and Commercial Departments and that they were working as regular Group D employees and disposed of the application. The question of retrospective regularisation and seniority of applicants was left open by the Tribunal. Applicants again approached the Tribunal in OA 1536/92 for this relief and the Tribunal directed second respondent therein to consider and dispose of the representations submitted by applicants. Thereafter, a Contempt Petition was also filed. Meanwhile, the representations of applicants were rejected by order dated 15.2.93 which was challenged in OA 1198/93. This application was withdrawn and another OA 1654/93 was filed, which was again withdrawn. Applicants are now before us with prayers to quash A-13 order dated 15.2.93 by which their request for seniority above one B Shyamala was rejected and to grant applicant the same treatment as was given to B Shyamala or A Thankamani in respect of regularisation, seniority, further promotions, fixation of pay, arrears etc.

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2. Respondents 1 and 2 in their reply have stated that applicants were initially engaged when the Trivandrum Division was formed for sporadic periods between 1979 and 1981 on a seasonal basis as daily paid workers. Smt Shyamala referred to by applicants had been engaged as a substitute Chart Assistant on 1.7.79 and was granted temporary status on completion of four months continuous service with effect from 1.11.79. As against this, applicants were only engaged as casual labourers and were discharged when their services were not needed whereas Shyamala had continued in service. Even the claim of applicants for grant of temporary status relates only to dates in 1981, whereas Shyamala had been granted temporary status on a much earlier date with effect from 1.11.79. Since Shyamala had an additional qualification of typewriting, she followed a different career pattern and was posted as a Telegraph Peon and was further promoted after due selection as Office Clerk in the Personnel Branch. Applicants, who had been retrenched in the meanwhile, had only been appointed again as seasonal water carriers in 1990 for a period of three months. The other person referred to by applicants, Smt Thankamani, was engaged as a casual labourer in a different Department, namely, the Personnel Branch, while applicants' services were utilised as casual labourers in Traffic/Commercial Departments. Thankamani had an additional qualification and experience as Telephone Operator and was, therefore, regularised as a Telephone Operator against posts earmarked for regularisation of skilled casual labourers. Applicants do not possess any skill in any trade to warrant regular absorption etc on par with Thankamani. Similarly, persons mentioned by applicants like K Shanmugham and Tharian George had already been considered by the Tribunal in TA No.34/87 and TA No.312/86 and they had been regularised in 1981 and 1982 taking into account their continuous service,

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whereas applicants were retrenched in 1981 and could be regularised only in the year 1991. Therefore, applicants cannot claim benefits by comparing themselves with Shanmugham and Tharian George. Respondents 1 and 2 further submit that each Department in the Railway is a separate seniority unit for the purpose of regularisation, transfer, promotion etc and applicants having accepted their posting as Goods Shed Porter/Parcel Porter/Traffic Porter in the Traffic Department and continuing on that basis, cannot claim similar treatment at this belated stage on par with employees working in other Departments.

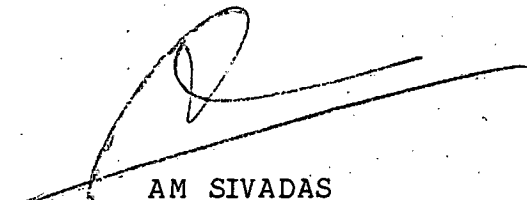
3. We notice that the basic grievance of applicants arose in 1981 when, according to them, their services were terminated while their juniors were retained. Applicants had already challenged their termination and obtained orders of the Tribunal on their prayers in that regard in earlier applications disposed of by the Tribunal. At this stage, it is not possible for the Tribunal to again consider the question whether their services were terminated wrongly and if so, what are the benefits to be granted to them on that basis. It is seen that applicants have cited a few cases where different treatment has been given to similarly placed persons. We, however, notice that the persons mentioned by applicants are not similarly placed. At the initial stage at the time of recruitment all of them might have been recruited as casual labourers, except Shyamala who was recruited as a substitute. Substitutes in the Railways are on a totally different footing from that of casual labourers and applicants cannot claim any relief by comparing themselves with Shyamala. As regards others mentioned by applicants, it is seen that each of them has been following different career charts in the Railways and have been working in separate Departments. Applicants have accepted the postings given by

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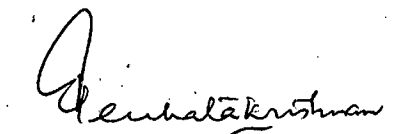
orders A6 dated 5.9.91 and have also been regularised in 1991 taking into account their total service. Under these circumstances, we do not see any reason to interfere with the impugned order A-13. We also see no reason to grant the prayer of applicants for treatment on par with either B Shyamala or A Thankamani in respect of service matters.

4. The application is without merit and is, therefore, dismissed. No costs.

Dated the 9th December, 1996.



AM SIVADAS
JUDICIAL MEMBER



PV VENKATAKRISHNAN
ADMINISTRATIVE MEMBER