

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.495/07

Tuesday this the 5th day of February 2008

C O R A M :

HON'BLE Mrs.SATHI NAIR, VICE CHAIRMAN

N.Anthony,
S/o.Nayagan,
Ex-Casual Labourer,
Southern Railway, Palakkad Division.
Residing at Maruthipatti, Morappur (Via),
Harur Taluk, Dharmapuri District.

...Applicant

(By Advocate Mr.T.A.Rajan)

Versus

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

...Respondents

(By Advocate Mr.K.M.Anthru)

This application having been heard on 5th February 2008 the Tribunal on the same day delivered the following :-

ORDER

HON'BLE Mrs.SATHI NAIR, VICE CHAIRMAN

The applicant is an ex-casual labourer of the Palakkad Division of Southern Railway. He is aggrieved by Annexure A-4 order cancelling his appointment on the ground that the date of birth recorded in the Casual Labourer Service Cards is not in consonance with the certificates now produced by him. Having worked for 503 days as casual labourer and being included in the Live Register, the applicant was called before the Screening Committee for re-engagement of ex-casual labourers. He was also medically examined on 12.6.2006. Thereafter the applicant was given an offer of appointment by Annexure A-3 dated 5.7.2006. The said order

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further required him to produce the original documents regarding his educational qualification, date of birth, conduct certificates etc. The applicant has submitted that he has in accordance with the direction produced the birth certificate issued by the Deputy Tahsildar, Harur, marked as Annexure A-5. But the respondents have by Annexure A-4 order cancelled his appointment order stating that the date of birth certificate is not in consonance with the entries made in the Casual Labourer Service Card. The applicant has contended that he has not been given notice before the cancellation or any opportunity of being heard and that he has submitted Annexure A-6 appeal before the General Manager which is still pending.

2. Detailed reply statement has been filed by the respondents. It is pointed out that before the Screening Committee on 31.5.2005, the applicant produced a certificate from the Village Officer, Maruthipatti wherein his date of birth was mentioned as 27.12.1959 along with an affidavit dated 3.4.2003 by the Village Officer which were not accepted by the Committee. However, the Screening Committee recommended the name of the applicant for consideration subject to production of proper date of birth certificate. A Personnel Inspector was deputed to verify the correctness of the certificate produced by the applicant from the Headmaster of the school showing his date of birth as 30.12.1959. Since the school record has been misplaced the matter could not be further verified and the Headmaster has reported this by letter Annexure R-2(6). Later the applicant had produced a fresh certificate issued by the Deputy Tahsildar, Harur showing his date of birth as 27.12.1959 (Annexure A-5) and based on Annexure A-5 the applicant was subjected to medical examination and having found fit, he was given an offer of appointment.

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At the time of appointment, the matter was further verified and it was noticed that date of birth furnished by the applicant at different point of time including in Casual Labourer Cards are substantially different. Respondents have produced Annexure R-2(7) and Annexure R-2(8) Casual Labour Cards. Casual Labour Cards show that he was engaged on 31.5.1971 and his age is given as 21 years. In view of this fact the respondents have concluded that all the documents produced by the applicant are having different dates. Hence the authenticity of these documents is in doubt. They also relied on Railway Ministry's decision under Rule 225 sub rule (C) which reads as under :-

"(C) In the case of Group D employees care should be taken to see that the date of birth as declared on entering Group D service is not different from any declaration expressed or implied, given earlier at the time of employment as casual labourer or as a substitute."

3. Rejoinder has been filed by the applicant in which he has contended that having accepted Annexure A-5 certificate and also acted in terms of Annexure A-5 a further verification regarding date of birth of the applicant was not at all necessary. It is also submitted that there is no difference in the age shown in Annexure R-2(7) and Annexure R-2(8) Casual Labour Cards. The age recorded in the Casual Labourer Service Card is not on the basis of any authenticated document. Even on the basis of the age recorded in the Casual Labour Card the applicant is entitled to be appointed as Trackman and as such in any case cancelling of offer of appointment is arbitrary and illegal.

4. I have heard Shri.T.A.Rajan, counsel for the applicant and Shri.K.M.Anthru, counsel for the respondents. The basic stand of the respondents is that the date of birth now produced on record by the

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applicant is different from the entries in the Casual Labour Service Cards. First of all, the Casual Labour Service Cards produced {Annexure R-2(7) and Annexure R-2(8)} do not have any entries regarding the date of birth in Column 3. It is only in Column 4, the age at initial casual employment has been declared. This would have been normally declared on approximate basis without any verification of documents. The additional sheets enclosed to the Annexure R-2(7) are also incomplete as it shows the service particulars from 1985 only whereas Annexure R-2(8) shows that he was appointed initially on 31.5.1971. The actual date of issue of these cards is also not visible from the copies produced. If the actual date of birth was indicated in the Casual Labour Cards and there is a discrepancy in the records now produced by the applicant, the stand of the respondents would have been justifiable. But in the absence of any entry regarding date of birth in these cards, it is not correct to deny the authenticity of the record at Annexure A-5 which is an extract of the Birth Register now produced by the applicant. I agree with the arguments of the counsel for the applicant that if an authenticated document such as Annexure A-5 regarding date of birth has been produced, it should prevail over all the declarations etc., if any, made regarding the date of birth. It is also seen that the certificate given by the Village Officer at Annexure R-2(3) based on the enquiries made in the village also shows that the applicant was born on 27.12.1959. Since his appointment now as Trackman in Group D constitutes an entry into regular Group D service, it is necessary in terms of Railway Ministry's decision, as correctly stated by the respondents, that the declaration about the date of birth should be based on proper documentary evidence. Such proper documentary evidence in respect of date of birth is the extract from the Birth Register. There cannot be any other document more authentic than this certificate. When the applicant has produced such an

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authenticated document as required under Rule 225, there is no further requirement to verify any other collateral evidence in this matter. The ingredients required in the stipulation of Railway Ministry's decision at (a) under Rule 225 are fully satisfied by the production of Annexure A-5 document. The Screening Committee has also after verification of this document and medical examination found him fit and issued the offer of appointment. It is seen that the applicant has submitted an appeal (Annexure A-6) before the General Manager pointing out this rule position and it is still pending before the said authority. Therefore, I am of the view that this O.A can be disposed of, at this stage, by a direction to the 1st respondent i.e. the General Manager, before whom the appeal of the applicant is pending, to consider Annexure A-6 representation of the applicant in the light of the position as stated above and to communicate a decision to the applicant within a period of one month from the date of receipt of a copy of this order. I, accordingly, do so. O.A is disposed of. No order as to costs.

(Dated this the 5th day of February 2008)


SATHI NAIR
VICE CHAIRMAN

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