

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.51/97

Monday, this the 13th day of October, 1997

C O R A M

HON'BLE SHRI AV HARIDASAN, VICE CHAIRMAN
HON'BLE SHRI PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

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K Madhubalan, Khalasi Helper,
Southern Railway,
Office of the Carriage and Wagon
Superintendent, Ernakulam Junction,
Residing at: 137-K, Railway Quarters,
Ernakulam Junction, Ernakulam.

....Applicant

By Advocate Shri TC Govinda Swamy.

vs

1. Union of India through
the Secretary to the Government of India,
Ministry of Railways, Rail Bhawan,
New Delhi.
2. The Chairman, Railway Board,
Rail Bhawan, New Delhi.
3. The Chief Personnel Officer,
Southern Railway,
Headquarters Office,
Park Town PO, Madras--3.
4. The Senior Divisional Personnel Officer,
Southern Railway, Trivandrum Division,
Trivandrum--14.

.....Respondents

By Advocate Smt Sumathi Dandapani.

The application having been heard on 1st October, 1997,
the Tribunal delivered the following on 13th October, 97:

O R D E R

HON'BLE SHRI PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

Applicant is a Steam Surplus Staff presently working as
Carriage and Wagon Khalasi Labour, Trivandrum Division,
Trivandrum. He had applied for Diesel Conversion Training and
eventual absorption as Diesel Assistant in response to a letter dated

contd.

17.7.92 which had been issued in pursuance of the directions of the Tribunal in OA 1735/91 and connected cases (A.4). Respondents published a list (A.5) of names of surplus staff proposed to be sent for Diesel Conversion Course, but the applicant's name was not included. He thereupon approached the Tribunal in OA 905/93, which was disposed of with a direction to consider the representation of the applicant. The representation was rejected and applicant challenged it in OA 306/94, which was disposed of with a direction to submit a representation to the Chief Personnel Officer. Applicant submitted representation A.7 and by A.8 order dated 17.4.95, the representation was rejected. Applicant challenged that order in OA 1396/95, which was disposed of with a direction that the matter may be brought to the notice of the Railway Board. Applicant submitted a representation dated 27.1.96 addressed to the Railway Board and by the impugned order A.11 dated 10.7.96, the representation was rejected. Applicant challenges A.11 on the ground that the reasoning stated in A.11 was not sustainable in the light of the decision of the Tribunal in OA 633/91, OA 257/90 and OA 1735/92 and connected cases. Applicant also submits that persons listed in A.5 are all similarly situated as the applicant and some are his juniors and, therefore, applicant alone has been subjected to hostile discrimination.

2. Respondents submit that the applicant was initially engaged as Loco Khalasi on 29.7.79. Due to closure of Steam Loco Sheds and on account of dieselisation during 1981, applicant was rendered surplus and later redeployed and absorbed as Carriage and Wagon Khalasi in Trivandrum Division with effect from 14.1.85. He was promoted as Khalasi Helper on 10.10.88 in accordance with his seniority in that Department. For filling up the post of Diesel Assistants, the surplus staff in the cadre of Fireman alone were

contd.

eligible to the extent of prescribed percentage subject to fulfilment of other conditions stipulated, in addition to direct recruitment through the Railway Recruitment Board to the extent of the prescribed percentage. It was then decided that surplus steam staff may be considered for Diesel Conversion Training for eventual absorption as Diesel Assistants in accordance with the letter dated 15.3.90 (A.1). Then a large number of applications were filed before the Tribunal claiming relief in terms of the letter dated 15.3.90. A scheme was drawn up to enable applicants in various Original Applications to be deputed for the Diesel Conversion Course. In the meanwhile, in the Permanent Negotiating Machinery meeting, it was decided that employees who worked as Firemen C even for a short period may be brought within the purview of Railway Board's letter relating to absorption of loco running staff. It was subsequently decided that running experience of one round trip on foot plate can be considered enough for Diesel Conversion Course (R.1). Applicant had not put in any foot plate service to become eligible to be included in the A.5 list of employees to be deputed for Diesel Conversion Course. In OA 905/93, applicant had produced a copy of an emergency duty pass in proof of his alleged foot plate experience. This pass had been issued to him for working as a Tender Khalasi. The records also show that the applicant was paid daily allowance only as in the case of employees normally deputed for outstation work and not Kilometrage Allowance. It is, therefore, clear that applicant did not have any foot plate experience and was not eligible to be deputed for the Diesel Conversion Course. Respondents further submit that no steam surplus staff, who had not put in foot plate service, have been sent for Diesel Conversion Course except those sent based on the orders of the Tribunal. Respondents also submit that persons like the applicant who were cleaners of the erstwhile steam loco have

contd.

no scope to be promoted as Diesel Assistants even when the cadre was in existence before 16.7.91 and only after issue of R.3 letter could such staff be considered for redeployment on the diesel side. Similarly, Group D staff of maintenance, namely Diesel Electric Cleaners/Khalasis did not have any chance to get elevated as Diesel Assistants before 18.10.93. Applicant had got absorbed in the Carriage and Wagon Department well before 1991 and he ceased to be a surplus staff on 14.1.85, the date on which he was absorbed in the Carriage and Wagon Department and so cannot claim the benefits available to the surplus staff.

3. The question whether steam surplus staff who had been rendered surplus and who had been absorbed in other Departments, could be considered for deputation for Diesel Conversion Course for eventual absorption as Diesel Assistants has already been settled by the Tribunal in OA 633/91 where it has been clearly held that erstwhile steam surplus staff should be considered for Diesel Conversion Course despite the fact that they have been redeployed and absorbed in other Departments. In the light of that finding of the Tribunal, we are unable to sustain the impugned order A.11 which rejects the case of the applicant for being considered for the Diesel Conversion Course on the sole ground that he had already been redeployed and absorbed in the Carriage and Wagon Department. We accordingly quash A.11.

4. However, there is a further prayer of the applicant that he should be considered and absorbed as Diesel Assistant on par with those who are included in A.5 list and in preference to his juniors with consequential benefits. Respondents have rejected the claim of the applicant for inclusion in A.5 list on the ground that he does not have foot plate experience. Learned counsel for

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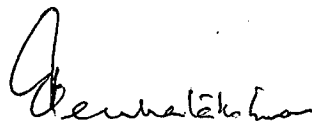
applicant would contend that there were several applicants in various Original Applications before the Tribunal who did not have foot plate experience and who have nevertheless been directed by the Tribunal to be considered for Diesel Conversion Course. Learned counsel for applicant also submits that there is no requirement of foot plate experience either in A.1 letter of the Railway Board or in the scheme drawn up by the Tribunal in OA 1735/91 and that, therefore, it must be deemed that the Tribunal had held that the requirement of foot plate experience was not essential for deputation to the Diesel Conversion Course. We are unable to agree with this contention. A.1 letter of the Railway Board refers only to the relaxation of minimum educational qualification and age restriction for redeployment of surplus steam staff. There is no indication therein that the requirement of foot plate experience or any other requirements also stand relaxed. The question whether foot plate experience was necessary or not for deputation for the Diesel Conversion Course was not specifically considered by the Tribunal and no finding thereon was arrived at in any of the Original Applications referred to by the applicant. The question was, therefore, left open. The question whether foot plate experience is necessary or not depends on the job requirements of the post of Diesel Assistants. It is entirely the prerogative of the respondents to prescribe the requirements of experience necessary for the post of Diesel Assistants and it is entirely a matter of policy which has to be left to the respondents. It is not for the Tribunal to lay down that foot plate experience is not required for the post of Diesel Assistant. The documents on record indicate that running experience was considered a condition precedent for sending steam surplus staff for Diesel Conversion Training and absorption as Diesel Assistants. Initially,

contd.

it was decided that to be eligible one should have done five round trips on foot plate. Later, at the representation on behalf of senior Engine Cleaners not having foot plate experience, the requirement was relaxed to one round trip. This is evident from Chief Personnel Officer's letter dated 23/26.8.91 (R.1). It was accordingly to that, the notification dated 17th July, 92 was issued. Pursuant to the notification alone, the applicant submitted his option. This notification also very clearly states that 'surplus steam running staff' alone would be entitled to exercise option. In paragraph 2 of the notification it was stated that the steam surplus staff should specifically mention their running experience and produce proof. The applicant did not challenge the condition, but submitted his option accordingly. This clearly indicates that only running staff could be considered for Diesel Conversion Course and inducted as Diesel Assistants. We are accordingly not in a position to accept the prayer of the applicant to consider and absorb him as Diesel Assistant despite his not possessing foot plate experience, even though we quash A.11 orders.

5. In the result, the application is partly allowed to the extent that A.11 is quashed, but rejecting the prayer of the applicant to consider his absorption as Diesel Assistant on par with those who were included in A.5 list. No costs.

Dated the 13th October, 1997.



PV VENKATAKRISHNAN
ADMINISTRATIVE MEMBER



AV HARIDASAN
VICE CHAIRMAN

LIST OF ANNEXURES

1. Annexure A1: True copy of the Railway Board Order No.E(NG) I/88/PM7/48/PNM dated 15.3.90.
2. Annexure A4: A true copy of the Common Judgement delivered by the C.A. in R.A.21/92 in O.A.1735/92 dated 13.7.92.
3. Annexure A5: A true copy of the Letter No.V/P 535/VI/Surplus/Option/Vol.II dated 30.11.92.
4. Annexure A-7: A true copy of the representation submitted by the applicant to the third respondent dated 21.1.95.
5. Annexure A8: A true copy of the Letter bearing No.P(S)672/II/Court Case/I dated 17.4.95 issued by the third respondent.
6. Annexure A11: Letter No.P(S) 673/II/1396/95 dated 5.7.96 communicated under letter No.V/P OA1396/95/149 dated 10.7.96.
7. Annexure R1: True copy of Letter No.P(S) 535/VI/SRES. dated 23/26.8.1991 of the Chief Personnel Officer, Southern Railway, Madras.
8. Annexure R3: True copy of the Rly. Board's Letter No.P(NG)I/90/PM7/34 dated 16.7.91.

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