

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.503/2007

Wednesday, this the 12th day of March, 2008.

**CORAM :
HON'BLE MR.GEORGE PARACKEN, JUDICIAL MEMBER**

L.Premkumar
Subamangalam Village,
CK Ashramam Post,
Tirupattur, Vellur District.
Pin – 635 602

... Applicant

By Advocate Mr.P.V.Mohanan

V/s.

- 1 Divisional .Personal .Officer,
Southern Railway,
Divisional Office,
Palghat-678 002.
- 2 Divisional Railway Manager (R)
Southern Railway, Divisional Office,
Palghat
- 3 Union of India through the
General Manager, Southern .Railway,
Park Town, P.O. Chennai-3. ... Respondents

By Advocate Mr.Thomas Mathew Nellimoottil

The application having been heard on 20.2.2008 the Tribunal delivered the following on 12.3.2008:

(ORDER)

Hon'ble Shri George Paracken, Judicial Member

This is the second round of litigation by the applicant seeking appointment to one of the vacancies of Trackman/Gangman in the

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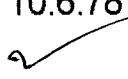
Divisional Office at Palghat from the date on which his immediate junior has been appointed with all consequential benefits taking note of his seniority in the Live Register.

2 The brief facts of the case as submitted by the applicant are that he worked as a casual labourer in Palghat Division from 21.8.82 to 20.4.84 (179 days) as per the Annexure A-2 casual labour card and thereafter he was retrenched. In terms of the decision rendered by Apex Court in Inter Pal Yadav & Ors V/s. Union of India & Ors 1985(2) SLR 249 case, the respondents, vide Annexure A-2 notice dated 10.2.2005, invited applications from the retrenched casual labourers whose names are available in the Live Register from 1396 to 2284 for the post of Trackman/Gangman in Group 'D' category in the scale of Rs.2610-3540. They were directed to be present in the Divisional Office with the casual labour card, copy of date of birth certificate, Photo Identity Card and other related documents on 22.02.05, 23.02.05 and 24.02.05. The applicant's name was at serial No.1845 of the Live Register with LTI No.150. After his records were verified by the Divisional Office, he was directed to report before the screening committee on 31.5.2005, and after due screening, he was recommended for absorption. Thereafter, he submitted his Transfer certificate bearing admission no.6037 from school in proof of his date of birth. Since the Respondents did not absorb him in service, he submitted the representation dated 31.8.2005. The Respondents in reply to the said representation, informed him vide Annexure A-6 letter dated 17.10.2005, that on verification of his Transfer Certificate with school authorities, it was

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found that the details of the actual pupil studied against admission No.6037 in Government High School (Boys) Tiruppattur did not tally with the Transfer Certificate produced by him and hence it was not possible to consider him for absorption. On receipt of aforesaid Annexure A-6 letter, the applicant himself approached the school authorities and requested them to issue the correct transfer certificate after conducting proper verification of his date of birth, name and standard he had studied, in view of the discrepancy pointed out by the Respondents. The discrepancies in the certificate were that his date of birth was shown as 27.9.62 and the class up to which he studied was shown as up to 9th standard whereas his actual date of birth was 4.7.58 and he had left the school on 31.11.75 after studying upto 6th standard. On receipt of his representation, the Head Master of the School, after due verification of his identity through the Tahsildar of Tirupattur Taluk, issued the fresh Annexure A-7 certificate bearing admission No.6793. Even after producing the corrected Certificate the respondents were not satisfied and they did not absorb him in service. He has, therefore, approached this Tribunal vide OA No.855/2005 and the same was disposed of by directing the applicant to make a representation with all details to the authorities concerned who in turn to consider the same and to issue appropriate orders. The impugned Annexure A-9 order dated 10.5.2005 has been issued in compliance of the aforesaid order of this Tribunal.


3 According to the respondents, the transfer certificate dated 10.6.78 was found not to be genuine and therefore he was not absorbed in



the service and the 'Applicant' has later changed his stand and stated that he was born on 4.7.58 and he had studied only in 6th standard in Government High School Tirupattur and left the school on 25.5.73. They have also noted the submission of the applicant that the earlier School Transfer Certificate issued to him was destroyed by termites and misrepresented the facts before the Deputy Tahsildar, Tirupattur, and obtained his order dated 11.11.05 authorising the school authorities to issue the School Transfer Certificate and based on such authorization, the Head Master, Government Boys Higher Secondary School, Tirupattur issued the School Transfer Certificate showing his date of birth as 4.7.58 on 21.12.05 without canceling the earlier Transfer certificate dated 10.6.78. The respondents have further noted that according to the LTI Register maintained in the Office of Permanent Way Inspector, Quilandy, he had declared his age as 24 at the time of engagement on 26.5.83 and thus his date of birth should have been 26.5.57. However, as per the entry in the Casual Labour Service Card, his age as on the date of initial engagement as casual labour on 21.8.82 was declared as 22 years and hence his date of birth should have been 21.8.60. Thus, his declaration regarding date of birth was inconsistent with one another and in violation of Rule 222 of IREC, Vo.I wherein it has been stated that in case of Group 'D' employees, care should be taken to see that the date of birth as declared in entering regular 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.



4 We have heard Advocate Mr.P.V.Mohanan for the Applicant and Advocate Mr.Varghese John for Mr.Thomas Mathew Nellimoottil for Respondents. It is a fact that the applicant has produced a copy of the School Transfer Certificate bearing admission No.6037 issued to him on 10.6.78 by the Head Master, Government High School (Boys) Tirupattur, according to which his date of birth was 27.9.62 and the date of his leaving the school was 31.11.75 and standard up to which he studied was 9th. No doubt it was a bogus certificate. The contention of the applicant is that the responsibility for issuing that certificate was with the school authorities and he was not responsible for the same. However, the fact of the matter is that he studied up to 6th standard and he is very well capable of reading and writing. Moreover, the certificate was issued in bilingual language in English and Tamil. If the certificate issued to him on 10.6.78 contained wrong entries regarding his date of birth, educational qualifications, etc. he should have ensured that it was got corrected at the earliest possible time. He did not do so on his own. Nobody can be made to believe that he was not aware of those wrong entries in the Certificate. He has also made use of it at his initial engagement as casual labourer. According to new certificate issued to him now, which is supposed to be the genuine one, his date of birth is 4.7.58 and he had studied only up to 6th standard. If the Respondents had not detected that the earlier certificate given by him was bogus at the proper time, he would have gained four more years of service. He also would have been promoted to posts for which the educational qualification was seventh standard and above upto 9th



standard. Both would have been beneficial to him in his future career and he would have taken undue advantage of more years of service. . It was only when the matter came to the notice of the respondents that the applicant has taken steps to get the correct certificate. No doubt that the new certificate which is now produced by the applicant is a genuine one and the same has been issued after due verification by the Tahsildar of the concerned Taluk. Moreover, it is seen that at the time of his initial engagement on 26.5.83 he misled the Respondents by declaring, his age as 24 years whereas he was actually 25 years at that time. Applicant is not an illiterate person to make such mistakes. Moreover, the applicant did not produce the original certificate issued to him on 10.6.78, whereas he has produced a copy of the same before the respondents at the time of his screening in 2005. His contention was that the original certificate was destroyed by termites. All these factors together indicate that the applicant had purposely tried to mislead the respondents by producing a bogus certificate which he obtained from the school authorities in 1978 and kept with him for all these years. The integrity of a government servant is the most essential qualification rather than any of his educational or technical qualifications he possesses. We do not find any merit in the contention of the applicant that he was not responsible for the bogus certificate issued to him. We agree with the respondents that the applicant has not come with clean hands and therefore, he cannot be accepted by them for regular appointment. The respondents are quite justified in denying him the appointment even after producing the genuine certificate.



5 In the circumstances, I find no merit in the contention of the Applicant and I dismiss this OA. There shall be no orders as to costs.



GEORGE PARACKEN
JUDICIAL MEMBER

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