

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Applicaton No.52/2013

Thursday this the 5th day of March 2015

C O R A M :

HON'BLE Mr.U.SARATHCHANDRAN, JUDICIAL MEMBER

G.Chandrachoodan,
S/o.N.Govindan Thambi,
Ballast Train Checker (Ex cadre),
Office of the Assistant Divisional Engineer,
Southern Railway, Ernakulam Junction, Cochin – 682 016.
Residing at Railway Quarters No.133-E,
Ernakulam Junction Railway Station, Cochin – 682 016.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 Divisional Personnel Officer,
Southern Railway, Thiruvananthapuram Division,
Thiruvananthapuram – 695 014.
3. The Senior Section Engineer, Permanent Way,
Southern Railway, Thiruvananthapuram Central,
Thambanoor P.O., Thiruvananthapuram – 695 014.
4. The Assistant Divisional Engineer,
Southern Railway, Ernakulam Junction,
Cochin – 682 016.Respondents

(By Advocate Ms.P.K.Radhika)

This application having been heard on 21st January 2015 this
Tribunal on 5th March 2015 delivered the following :



ORDER

HON'BLE Mr.U.SARATHCHANDRAN, JUDICIAL MEMBER

The question involved in this case is whether the respondents were justified in rejecting the request of the applicant for seeking the benefits under Liberalized Active Retirement Scheme for Guaranteed Employment for Safety Staff (LARSGESS for short) by reason of his present ex-cadre posting as Ballast Train Checker. According to applicant his lien is still retained in the parent cadre ie., Senior Trackman. Respondents contend that LARSGESS is applicable only to safety related workers who include Trackman and that the post of Ballast Train Checker which is presently held by the applicant does not come under the Scheme. According to them, applicant has to first come back to the post of Trackman and only then he can seek the benefits of the LARSGESS, if he is interested. It is further pointed out by the respondents that the applicant is not interested in coming back to the cadre of Trackman due to the apprehended drop in emoluments. It is further stated that the LARSGESS is applicable only to Trackman in the Grade Pay of Rs.1800/-; not holding the Grade Pay of above Rs.1800/-.

2. Heard Shri.T.C.Govindaswamy, learned counsel for the applicant and Shri.Asif representing Ms.P.K.Radhika, learned counsel for the respondents. It is not in dispute that the applicant was promoted as Ballast Train Checker as an ex-cader posting after undergoing the due recruitment.



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procedure. Annexure A-5 is the order promoting the applicant posting him as Ballast Train Checker from the cadre of Senior Trackman. It read as follows :

SOUTHERN RAILWAY
O.O.No.80/2003/WP

Sub: Promotion and posting of Ballast Train Checker (Ex-cadre) in scale Rs.3050-4590.

Ref: This Office Note No.V/II.608/I/BTC of 23.4.01.

I One post of BTC in scale Rs.3050-4590 is transferred from Sr.DEN/O/TVC to ADEN/O/ERS

II. One post of BTC which is yet to be pinpointed will be operated at ADEN/O/NCJ.

The following employees who have been selected and placed on the panel for the post of Ballast Train Checker (BTC) (Ex-cadre) in scale Rs.3050-4590 are promoted as BTC in scale Rs.3050-4590 and posted to the stations noted against each :

Sl.No.	Name Designation/Stan & Grade	Promoted as BTC under	Remarks
1	B.Prabhakaran Nair, Sr.Trackman I/SE/PW/O/VAK Rs.2750-4400/-.	ADEN/GTR/O/TVC	
2	Vincent, Sr.Trackman.II SE/PW/O/NCJ Rs.2650-4000/-.	ADEN/O/NCJ	
3	G.Chandruoodan, Sr.Trackman.II/SE/PW/O/TVC	ADEN/O/ERS	

The above promotions are ordered subject to the condition that there are no *prima facie* cases pending against them as a result of fact finding enquiry or otherwise and they have not placed under suspension or no departmental proceedings have been initiated against them or no proposal to initiate proceedings at an early date or they are not undergoing any penalty debarring them from promotion.

2. The promotion will take effect from the date of shouldering higher responsibilities of the post.
3. Their lien will be maintained in the cadre post.
4. They are allowed to exercise option for fixation of pay within a period of one month from the date of promotion under Rule No.1313.R.II.

This has the approval of competent authority.

Divisional Office,
Personnel Branch,
Trivandrum - 14.

for Sr. Divisional Personnel Officer.

No. V/P.608/I/BTC. Dated 6.6.2003.

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3. It is made clear in Annexure A-5 that although the promotion is granted to the applicant to the post of Ballast Train Checker his lien is retained in his cadre post ie. Senior Trackman. Shri.T.C.Govindaswamy pointed out that this would entitle the applicant to claim the benefits under LARSGESS because he retains his lien as Senior Trackman which is a category entitled to the benefits of LARSGESS. Railways, on the other hand, contend that the Scheme is applicable to the employees in the safety category including Trackman/Senior Trackman whose job involves hard and strenuous work, whereas the work of Ballast Train Checker is light and not so onerous.

4. It is to be noted that LARSGESS is intended for early retirement of persons working in the safety related categories whose strenuous and hardous nature of physical work eventually debilitates their physical strength as time passes. The alertness and physical strength is warranted from such employees as the same is vital to the safety of railway passengers. The intention of the Scheme being this, the Railway is quite right when it says that the LARSGESS is intended only for the workers engaged in the safety related work of Railways.

5. Shri.T.C.Govindaswamy referred to a decision of the Kerala High Court in O.P.No.31680/2001 dated 26.3.2008 wherein it was held that a Senior Trackman who has been promoted as Ballast Train Checker (BTC) and yet retained his lien in the post of Senior Gangman/Trackman is entitled

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to be considered for the post of BTC for which Gangmen are eligible for applying. This Tribunal is of the view that the *ratio* of that case is squarely applicable in this case also because as long as the lien of the applicant is retained in the cadre of Senior Trackman he is entitled to be considered for the benefits under the LARSGESS Scheme. The contention of respondents that he should first get a reversion to the post of Senior Trackman from the Ex-cadre post of Ballast Train Checker is nothing but a convoluted approach to the issue. Mr. Govinda Swamy pointed out that as per the administrative instructions a railway employee cannot remain in an ex-cadre post for more than four years. He submitted that no steps have been taken by the respondents either to repatriate applicant to the cadre post or to regularise him in the post of BTC.

6. In the result, the O.A is allowed. Respondents shall treat the applicant as entitled to the benefits of Annexure A-1 to Annexure A-4 Schemes. Respondents shall consider the application submitted by the applicant for retirement under Annexure A-1 to Annexure A-4 Schemes and shall take a decision thereon including the decision on giving appointment to his ward. This exercise shall be completed within two months from the date of receipt of a copy of this order. No order as to costs.

(Dated this the 5th day of March 2015)

U. Sarathchandran
U.SARATHCHANDRAN
JUDICIAL MEMBER

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