

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 519 of 1999

Tuesday, this the 14th day of March, 2000

CORAM

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

1. K. Viswanathan,
S/o Kannu Nadar,
Nadutheru Veedu, 44-A,
Unnamalakadai Post,
Kanyakumari District-629179 ..Applicant

By Advocate Mr. B. Raghunathan

Versus

1. The Chief Engineer (Construction),
Southern Railway, Tamil Nadu.
2. Divisional Engineer,
Southern Railway,
Thiruvananthapuram.
3. Divisional Railway Manager,
Southern Railway,
Thiruvananthapuram.
4. Divisional Personnel Officer,
Southern Railway,
Thiruvananthapuram.Respondents

By Advocate Mr. Mathews J Nedumpara

The application having been heard on 14th March, 2000, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

The applicant seeks to direct the respondents to re-appoint him as project casual labourer in Trivandrum Division, in conformity with the directions contained in A1 and on the basis of his rank in the integrated seniority list of project casual labourers, from the date on which his immediate junior in the said seniority list was appointed, with all attendant benefits.

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2. The applicant worked as project casual labourer from 21-2-79 to 1-8-81. His name is included in the integrated seniority list of project casual labourers of Trivandrum Division. Though his seniority position was originally shown as Sr.No. 2222, the same was later revised as Sr.No. 2134. When he came to know that his juniors included as Sr.Nos. 2135-2145 had been appointed in permanent vacancies, he submitted a representation dated 27-11-97 to the 2nd respondent requesting to re-appoint him. He was not appointed as requested.

3. The respondents contend that none of the applicant's juniors from the list has been re-engaged based on the seniority position therein. The applicant's name is figuring at Sr.No. 2641 in the merged seniority list finalised in compliance of the judgement of this Bench of the Tribunal in OA No. 1706/94. The applicant has not challenged the order as per which his seniority position has been changed from 2134 to 2641.

4. Though the applicant contends that his seniority position in the merged seniority list is at Sr.No. 2134, it is categorically denied by the respondents by saying that as per the merged seniority list finalised in compliance with the judgement of this Bench of the Tribunal in OA No. 1706/94 his seniority position is at Sr.No. 2641. It is also specifically contended by the respondents that the applicant has not challenged the said seniority position.

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5. A4(3) shows that applicant's seniority position is at Sr.No. 2134. A4(4) shows that the applicant's seniority position is at Sr.No. 2641. Though A4 does not show the date since it is only a portion of the merged seniority list, the learned counsel appearing for the applicant submitted after referring the entire list available with him that the number of the said office letter is V/P. 407/1/Merger dated 8-7-1997. A6 says that re-engagement of the applicant in his turn in the merged seniority list published vide office letter No. V/P.407/1/Merger dated 8-7-97 will be considered subject to fulfilling of conditions prescribed for such engagement. A6 is the latest order issued by the respondents to the applicant. It is issued after the filing of the OA. So, the position is very clear that as on today the applicant's seniority position is as contained in the office letter No. V/P.407/1/Merger dated 8-7-1997.

6. The applicant has not cared to amend the OA by challenging A6 or the office letter No. V/P.407/1/Merger dated 8-7-1997 as per which the seniority position has been changed from 2134 to 2641.

7. Learned counsel appearing for the applicant submitted that he has filed a miscellaneous application to quash A6. That application has been returned by the Registry being defective. So, the position is very clear that not only no amendment of the OA has been effected but even no attempt to amend the relief sought been made.

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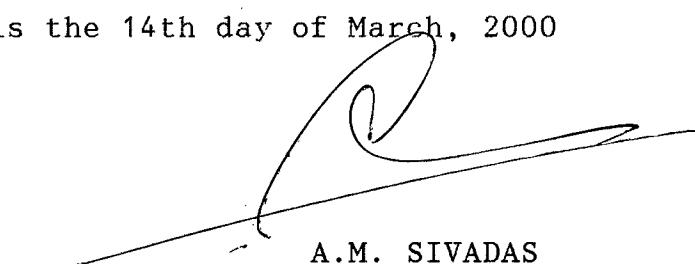


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8. Learned counsel for the applicant submitted that though there is no relief sought challenging A6 or the said letter, relief can be moulded in such a fashion as the circumstances warrant. A relief which is not sought cannot be granted. A relief lesser than what is sought could be granted. In the absence of any challenge to A6 or to the office letter referred to therein, the seniority position of the applicant is to be taken as Sr.No. 2641 as contended by the respondents. As respondents specifically say that nobody junior to the applicant has been re-engaged and as there is no case for the applicant that anybody after Sr.No. 2641 has been engaged, the applicant is not entitled to the reliefs sought for.

9. Accordingly, the original application is dismissed.
No costs.

Tuesday, this the 14th day of March, 2000



A.M. SIVADAS
JUDICIAL MEMBER

ak.

List of Annexures referred to in this Order:

1. A1 - True copy of the order dated 7-9-89 in OA No.143 of 1987 of CAT, Ernakulam Bench
2. A4 - True copy of letter No. V/P.407/1/Merger dated 8-7-97 along with the merged seniority list of casual labourers.
3. A6 - True copy of letter No. V/P.O.A./519/99/55 dated 8-6-1999 issued by the 2nd respondent.