

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. 528/92

Wednesday the tenth day of November, 1993

MR. N. DHARMADAN MEMBER (JUDICIAL)

MR. S. KASIPANDIAN MEMBER (ADMINISTRATIVE)

H.D. Commerford
194/D, Railway Quarters
Railway Colony
Kollam District

By Mr. P. Santhalingam

Applicant

vs.

1. Union of India represented by the
Secretary to the Ministry of Railways
New Delhi

2. The Sr. Divisional Mechanical Engineer
Southern Railway, Thiruvananthapuram

3. Chief Mechanical Engineer of Power
RM & L, (Running and Loco)
Southern Railways, Madras

4. The Area Supdt. (Mechanical)
Office of the ARS (M) Rail Jn.
Kollam

Respondents

By Smt. Sumathi Dandapani

ORDER

MR. N. DHARMADAN

The applicant is aggrieved by the denial of opportunity to work as Assistant Loco Foreman (R), for short ALF (R).

2. According to the applicant, he commenced service in 1961 and later he was promoted and posted as Shunter in 1980. He submitted that he obtained the certificate of competency for diesel driver assistant after passing the course conducted by the Diesel Training School of Southern Railway, Trichirappally in 1970. He was issued competency certificate for handling WDS 6 on 14.5.82 and in WDM 2 Locomotives on 24.2.1983 by the Divisional Mechanical Engineer (Diesel) Ernakulam and Divisional Mechanical Engineer (Diesel) Erode respectively. He further submitted that he was posted as ALF (R) for the period from 1.7.89 to 19.3.92. After

19.9.92 he was not given the posting of ALF (R) so as to enable him ^{to} ~~to~~ the running allowance. On the other hand, some of his juniors were appointed even though they were not qualified for ^{such} ~~the~~ posting. He further submitted that he was kept idle from 1986 to 89 before the posting referred to above.

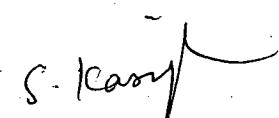
3. The applicant has relied on Annexure A-2 issued by the second respondent to the 4th respondent in which there is indication that the applicant was kept idle even though he could have been utilised as ALF (R). According to the applicant he is competent to be posted as ALR (R). Without considering his claim for posting as ALF (R), S/Shri Madhavan Pillai, Ramachandran, Appu, V.S. Bhasi Ramachandran Pillai, Appukuttan etc. who were newly promoted as Shunter from the grade of Diesel Assistant were posted as ALF (R). They are earning running allowance. Applicant was kept idle without assigning any duty to earn running allowance as in the case of the juniors. According to the applicant, this is discriminatory and violative of article 14 and 16 of the Constitution.

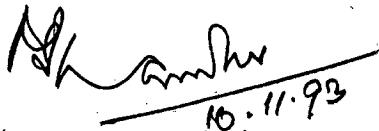
4. Respondents in the reply denied the posting of the applicant as ALF (R) between 1989-92 as alleged by the applicant. They have also stated that the applicant has not been promoted as Engine Driver/Diesel Driver since he has not completed the course/training by passing the interview and practical test. Applicant has been given sufficient opportunity to undergo the course and pass the necessary test. It is stated in the rejoinder that many of the juniors have been engaged as ALF (R). It has not been specifically denied by the respondents ^{giving satisfactory details}. Hence, the statement of the applicant in the rejoinder requires further verification by the competent authority.

5. In this view of the matter, we are satisfied that the application can be disposed of in the interest of justice. Accordingly, we are satisfied that the statement of the applicant that he was unnecessarily kept idle denying the benefit of running allowance requires further verification in the light of the statement contained in the rejoinder. The second respondent shall conduct necessary verification with reference to the official records available in the department and take a decision as to whether the applicant had already been engaged as ALF (R) for the period 1989 to 20.3.1992 and also verify the statement of the applicant that some of his juniors who have not passed the test are given the benefit of appointment of ALF (R) overlooking his better claim. In case it is found that any of the juniors of the applicant referred to in the rejoinder were appointed as ALF (R) overlooking the claim of the applicant, the applicant is also eligible to be appointed as ALF (R). The final decision shall be taken by the second respondent within three months from the date of receipt of this order.

6. The application is disposed of as above.

7. There shall be no order as to costs.


(S. KASIPANDIAN)
MEMBER (ADMINISTRATIVE)


10.11.93
(N. DHARMADAN)
MEMBER (JUDICIAL)

KMM