

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA 536/99

Friday this the 20th day of July, 2001.

CORAM

HON'BLE MR. A.M.SIVADAS, JUDICIAL MEMBER
HON'BLE MR. G.RAMAKRISHNAN. ADMINISTRATIVE MEMBER

1. P.Surendran Pillai
Khalasi Helper (Carriage & Wagon)
Southern Railway
Coach Depot Office
Trivandrum Central
Thiruvananthapuram..
2. B.Mani
Khalasi Helper (Carriage & Wagon)
Southern Railway, Coach Depot Office
Trivandrum Central
Thiruvananthapuram.
3. G.Soman
Khalasi Helper
(Carriage & Wagon)
Southern Railway, Coach Depot Office
Trivandrum Central
Thiruvananthapuram.
4. S.Sasankan
Khalasi Helper
(Carriage & Wagon)
Southern Railway
Coach Depot Office
Trivandrum Central
Thiruvananthapuram.
5. K.Ashokan
Khalasi Helper
(Carriage & Wagon)
Southern Railway Coach Depot Office
Trivandrum central
Thiruvananthapuram.
6. N.,Rajendran-II
Khalasi Helper
(Carriage & Wagon)
Southern Railway
Coach Depot Office
Trivandrum Central
Thiruvananthapuram.
7. V.Ashokan, Khalasi
(Carriage & Wagon)
Southern Railway
Coach Depot Office
Trivandrum Central
Thiruvananthapuram.

Applicants.

[By advocate Mr.P.K.Madhusoodhanan]

Versus

1. Senior Divisional Personnel Officer
Southern Railway
Thiruvananthapuram.
 2. The General Manager
Southern Railway
Park Town
Chennai.
 3. Union of India represented by its Secretary
Ministry of Railways
Rail Bhavan
New Delhi.
 4. Rajesh Raju
Apprentice Carriage & Wagon Fitter Grade III
Mechanical Department
Southern Railway
Trivandrum Central
Thiruvananthapuram.
 5. P.V.Praveen
Apprentice Carriage & Wagon Fitter Grade III
Mechanical Department, Southern Railway
Thiruvananthapuram.
 6. C.S.Santhoshkumar
Apprentice Carriage & Wagon Fitter Grade III
Mechanical Department
Southern Railway
Thiruvananthapuram.
 7. V.Anilkumar
Apprentice Carriage & Wagon Fitter Grade III
Mechanical Department
Southern Railway
Thiruvananthapuram.
 8. N.Mahendran Nair
Apprentice Carriage & Wagon Fitter Grade III
Mechanical Department
Southern Railway
Thiruvananthapuram.
- Respondents.

[By advocate Mrs. Sumathi Dandapani for R1-3]

The application having been heard on 20th July, 2001,
the Tribunal on the same day delivered the following:

O R D E R

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

Applicants seek the following reliefs:

- a) Set aside A-1, A-2 and A-3.

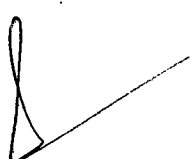
- b) Declare that the respondents have to conduct selection and promotion to the post of C&W Fitter Grade III (Skilled Artisans Mechanical) as per the quota fixed at para 159 of the Indian Railway Establishment Manual Volume-I simultaneously and fix the seniority in accordance with law.
- c) Issue necessary directions to the respondents to consider the applicants for promotion to the 25% Rankers Quota and 50% Promotion Quota vacancies of C&W Fitter Grade III set apart for serving semi-skilled and unskilled staff in the feeder category of Carriage and Wagon Khalasi Helpers and Khalasi, ascertaining the vacancies set apart for each quota and as per their eligibility before proceeding with direct recruitment in pursuance of the Employment Notice dated 12.3.99 and before granting promotion to them.
- d) Issue necessary directions to the respondents to grant promotion to the applicants in the 50% Promotion Quota vacancies of Carriage and Wagon Fitter Grade-III in preference to their juniors and the respondents 4 to 8 if the applicants are found suitable and eligible for the same as per law.
- e) Issue necessary directions to the respondents restraining them from proceedings with the direct recruitment of Skilled Artisans (Mechanical) contained in Employment Notice dated 12.3.99 and from finalising the selection and also restraining them from confirming the appointment of respondents 4 to 9 in the post of Carriage and Wagon Fitter Grade-III.
- f) Award costs for the proceedings to the applicants and
- g) Grant such other reliefs as this Hon'ble Tribunal deems fit and proper.

2. Applicants 1 to 6 are working as Carriage and Wagon Khalasi Helpers. 7th Applicant is a Carriage and Wagon Khalasi of the Mechanical Engineering Department. Their next promotion is to the post of Skilled Artisans (C&W Fitter-III) and the method of filling up the vacancies is as per para 159 of I.R.E.M. The three methods of filling up the Skilled Artisans post is known as Direct Recruitment quota, Rankers Quota and Promotion Quota respectively. The applicants are stagnated in the feeder category posts of C&W Khalasi/Khalasi Helpers for many years. Respondents resort to direct recruitment very




often and did not conduct selection for promotion to the Rankers Quota and Promotion Quota set apart for serving staff in the lower grade thereby defeating their legal and fundamental rights to be considered for promotion to the post of C&W Fitter Grade-III. Without disclosing the vacancy position set apart for Rankers Quota and Promotion Quota, the respondents at their whims and fancies are filling up the posts of C&W Fitter Grade III from open market by appointing C&W Fitter II Apprentices and regularising them in service after satisfactory completion of their training. A-1, A-2 and A-3 are copies of orders of appointment of respondents 4 to 8 as Apprentice C&W Fitter Grade III.

3. Respondents resist the OA contending that they are "in a position to furnish the number of promotions awarded during these years if the Hon'ble Tribunal directs so". The total sanctioned strength in the category of Carriage & Wagon Fitters Gr.III in Trivandrum Division is only 153, out of which there are only 6 vacancies to be filled up. Out of these 6 vacancies, 2 vacancies are to be filled up on 50% promotional quota and one vacancy on 25% rankers' quota, for which proposals have already been initiated to full up the vacancies. The remaining 3 vacancies are to be filled up through 25% Direct Recruitment quota through the Railway Recruitment Board. The applicants are likely to get promoted to the category of C&W Fitter before the absorption of respondents 5 to 7 against the working post.




4. The grievance of the applicants is that they are working in the feeder category for many years for the reason that the respondents resort to direct recruitment very often and did not conduct selection for promotion to the Rankers' Quota and Promotion Quota set apart for serving staff in the lower grade. They also say that after the year 1988 C&W staff in the lower grade were not considered and granted promotions to skilled grade vacancies in existence either through the 25% rankers quota or 50% promotion quota set apart for them. What the respondents say is that they are in a position to furnish the number of promotions awarded during the relevant years if the Tribunal so directs. It appears that as far as the respondents are concerned, there is no duty cast upon them to make proper pleadings and it is for the Tribunal to decide in the first instance whether the number should be furnished and whether they should be directed to do it. Respondents further say that "in fact the total sanctioned strength itself in the category of Carriage and Wagon Fitters Gr.III in Trivandrum Division is only 153 out of which there are only 6 vacancies to be filled up. Out of these 6 vacancies, two vacancies are to be filled up on 50% promotional quota and one vacancy on 25% rankers quota for which proposals have already been initiated to fill up the vacancies. The remaining 3 vacancies are to be filled up through 25% direct recruitment quota through the Railway Recruitment Board". We express our total inability to understand what the respondents mean by this. It is something very strange and curious that 50% of 6, according to respondents, is 2 and at the same time, for them 25% of 6 is 3. This shows the way in which the reply statement has been filed.



5. A-1, A-2 and A-3 would go to show that the respondents have resorted to direct recruitment. A-3 says that "considering the outstanding performance in the field of sports (cycling) the General Manager has personally approved the out of turn promotion to Sri N.Mahendran Nair, C&WK/TVC in grade Rs.2550-3200 on Sports account to Group-C service, subject to the conditions that his regularisation in Group-C will be with reference to the date on which he is normally due on his turn for promotion to Group-C and also subject to the conditions that he should complete the training prescribed successfully". So this order simultaneously says that out of turn promotion is given and it will be subject to normal turn of the incumbent.

6. A-2 says that the existing vacancies are utilised for accommodating those persons figuring in A-2 pending creation of supernumerary posts by Headquarters. This also shows the way in which the matter has been dealt with by the department. From this it can very well be said that persons like the applicants are totally ignored and a sort of preference is given for direct recruitment. The applicants are entitled to the relief according to the provisions. Their grievance cannot be ignored and is to be seriously considered.

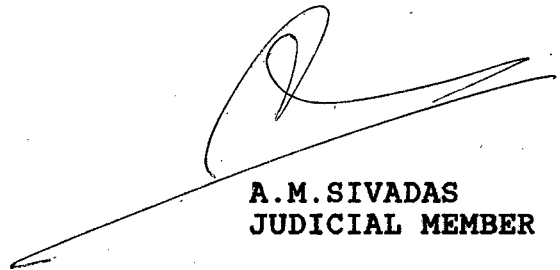
7. In the absence of factual materials required for adjudication of the dispute, the course open to us is only to direct the General Manager, Southern Railway, Chennai to look into the matter with all the seriousness and pass appropriate orders.



8. Accordingly the General Manager, Southern Railway, Chennai is directed to consider the question involved herein with all the seriousness it deserves and pass appropriate orders within 3 months from the date of receipt of a copy of this order. The interim order dated 26.5.99 will remain in force till The General Manager passes the final order.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.M. SIVADAS
JUDICIAL MEMBER

aa.

Annexures referred to in this order:

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| A-1 | True | copy. | of |
| | O.O.No.37/98/C&W/M(No.V/P.268/IV/C&W/Gr.C/Vol.III) | | |
| | dated 11.5.98 of the 1st respondent. | | |
| A-2 | True | copy | of |
| | O.O.No.20/99/C&W/M(No.V/P.535/IV/C&W | | |
| | F/Vol.7 dated 9.4.99 of the 1st respondent. | | |
| A-3 | True | copy | of |
| | O.O.No.21/99/C&W/M (No.V/P.535/IV/C&W | | |
| | F/Vol.7) dated 12.4.99 of the 1st respondent. | | |