

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.541/00

Tuesday this the 23rd day of March 2004

C O R A M :

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR. H.P.DAS, ADMINISTRATIVE MEMBER

P.J.Varghese,
S/o.Jacob,
Panackal House,
Avanancode, Chowara,
Sanitary Cleaner,
Office of the Chief Health Inspector,
Southern Railway, Ernakulam.

Applicant

(By Advocate Mr.P.Ramakrishnan)

Versus

1. Union of India represented by
the General Manager,
Southern Railway, Chennai.
2. The Senior Divisional Personnel Officer,
Divisional Office, Personnel Branch,
Southern Railway, Trivandrum.
3. The Chief Health Inspector,
Southern Railway, Ernakulam.
4. Sri.Sahodaran,
Chief Health Inspector,
Southern Railway, Ernakulam.

Respondents

(By Advocate Mrs.Sumathi Dandapani)

This application having been heard on 23rd March 2004 the
Tribunal on the same day delivered the following :

O R D E R

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN

The applicant commenced his service as a Casual Mazdoor on 13.2.1978 in the Trivandrum Division of Southern Railway. He was granted temporary status after six months of continuous service. However his services were terminated on 5.6.1981. The termination of his services was challenged in O.P.4582/81 before the Hon'ble High Court of Kerala. The applicant was as a result reinstated in the service. However, his services were again

terminated with effect from 29.4.1982. By order dated 18.3.1988 in T.A.36/87 the termination of service was again set aside. A third time the services of the applicant was terminated which was challenged in O.A.489/93. The Tribunal by order dated 22.6.1994 directed that the applicant is to be re-engaged in a lower medical category with effect from the date of engagement of his junior Purushan.A (Annexure A-4). The said Purushan was re-engaged as a Substitute Sanitary Cleaner by a Memorandum dated 8.3.1990 (Annexure A-5). Inspite of the repeated representations to give effect to the Tribunal's order directing his re-engagement with effect from the date of engagement of his junior Purushan, the respondents did not do so and therefore the applicant filed a Claim Petition 6/95 before the Labour Court, Ernakulam under Section 33 C(2) of the Industrial Disputes Act for computation of wages due to him. During the pendency of the Claim Petition the 2nd respondent issued a letter calling upon the applicant to report at his office with the Casual Labour Card. As the applicant had lost his Casual Labour Card and was therefore unable to produce the same and the 2nd respondent insisted on production of the Casual Labour Card the applicant has filed O.A.192/98 seeking a direction to the respondents to re-engage him in terms of the order in O.A.489/93. As the respondents expressed willingness to re-engage the applicant an interim order (Annexure A-7) was issued in O.A.192/98. Pursuant to the above order the applicant was by order dated 30.7.1998 (Annexure A-8) re-engaged only prospectively. Finding that the Annexure A-8 was not in full compliance with the orders of the Tribunal in O.A.489/93, O.A.192/98 was disposed of directing the respondents to treat the applicant as having been re-engaged with effect from the date of Purushan's engagement with all

consequential benefits. Despite such order the applicant has not been given the consequential benefits nor was he treated on par with his junior Purushan. While so, on account of some alleged strained relationship between the applicant and the 4th respondent it is alleged that impugned order Annexure A-3 has been issued transferring the applicant to Quilon as Substitute Sanitary Cleaner despite the fact that there are vacancies to accommodate the applicant at Ernakulam itself. Aggrieved by not giving effect to the Tribunal's order in O.A.489/93 and orders issued not treating the applicant on par with his junior by the impugned orders Annexure A-1 and Annexure A-2 as also transferring him out of Ernakulam, the applicant has filed this application seeking to set aside the impugned orders.

2. The respondents in their reply statement contend that the applicant is not to be treated as re-engaged with effect from the date on which Purushan was re-engaged. As a matter of fact the applicant was re-engaged on 3.8.1998 and that the decision in O.A.192/98 having been challenged before the Hon'ble High Court of Kerala in O.P.8912/99 and the Hon'ble High Court of Kerala having stayed the operation of the Tribunal's order the applicant is not entitled to the said reliefs. The respondents also stated that the applicant having joined at Quilon on 31.5.2000 the challenge against Annexure A-3 can no more stand. When the case came up for hearing last time the counsel on either side stated that O.P. has not been disposed of by the Hon'ble High Court of Kerala and this matter could be taken up after the disposal. But in the absence of any order of stay of the proceedings in this O.A. we do not find any justification in adjourning this O.A. which is of the year 2000. We find that the question whether the

applicant is to be treated re-engaged with effect from the date on which his junior Purushan engaged in the year 1990 and entitled to all the consequential benefits is also under consideration before the Hon'ble High Court of Kerala in O.P.8912/99. Since the applicant had already joined at Quilon pursuant to the impugned order (Annexure A-3) as early in the year 2000 itself the question of validity of transfer also does not have of any importance now. Under these circumstances the application is disposed of directing the parties to abide by the decision of the Hon'ble High Court of Kerala in O.P.8912/99 in regards to the entitlement of the applicant for being treated on par with his junior Purushan and the consequential benefits arising therefrom. With the above directions the O.A. is disposed of. No costs.

(Dated the 23rd day of March 2004)

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H.P.DAS
ADMINISTRATIVE MEMBER

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A.V. HARIDASAN
VICE CHAIRMAN