

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Dated, the 11th October, 1993

CORAM

THE HON'BLE MR N DHARMADAN, JUDICIAL MEMBER
&
THE HON'BLE MR S KASIPANDIAN, ADMINISTRATIVE MEMBER

O.A.No.57/92

Alex Thomas - Applicant
Mr Thampan Thomas - Advocate for
applicant

V.

1. The Divisional Railway Manager,
Southern Railway, Trivandrum.
2. Senior Divisional Mechanical
Engineer, Southern Railway,
Trivandrum.
3. Divisional Personnel Officer,
Southern Railway, Trivandrum.
4. N Dinesan, Goods Driver, Through the
Southern Railway, Quilon. Divisional Personnel
Office, Southern
Railway, Trivandrum.
5. K Prabhakaran,
Goods Driver, Quilon -do-
6. K Ramachandran Pillai,
Goods Driver, Quilon -do-
7. AV Ravindran,
Goods Driver, Ernakulam. -do-
8. N Somarajan,
Goods Driver, Quilon. -do-
9. N Sasikumar,
Goods Driver, Ernakulam. -do-
10. MA Joju,
Goods Driver, Ernakulam. -do-
11. K Venugopala Pillai,
Goods Driver, Ernakulam. -do-
12. KS Soby,
Goods Driver, Ernakulam. -do-
13. P Vijayan,
Goods Driver, Ernakulam. -do-
14. KA Gireesakumaran Nair,
Goods Driver, Ernakulam. -do- - Respondents

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15. Sushil G Jacob, Through the
Goods Driver, Ernakulam. Divisional Personnel
Officer, Southern
Railway, Trivandrum.

16. V Ramesh, -do-
Goods Driver, Ernakulam

17. SS Murugan, -do-
Goods Driver, NCJ

18. N Sankaranarayanan, -do-
Goods Driver, Ernakulam.

19. S Thrikkraman, -do-
Goods Driver, Ernakulam

20. F Sebastian Tites, -do-
Goods Driver, Ernakulam

21. KV Mathew, -do-
Goods Driver, Ernakulam.

22. PN Sathesan, -do-
Goods Driver, Ernakulam.

23. N Kumarakara Bhaskaran, -do-
Goods Driver, Ernakulam.

24. KA Vijayakumar, -do-
Goods Driver, Ernakulam.

25. PN Rajendra Prasad, -do-
Goods Driver, Ernakulam.

26. S Sakthevel, -do-
Goods Driver, Ernakulam.

27. K Ganesan, -do-
Goods Driver, Ernakulam.

28. C Subramanian(SC) -do-
Goods Driver, Ernakulam.

29. CK Rajendrakumar(SC) -do- - Respondents
Goods Driver, Ernakulam.

Mrs Sumathi Dandapani - Advocate for
respondents 1 to 3

Mr M Ramachandran - Advocate for
respondents, 16, 20
and 21

JUDGEMENT

N DHARMA DAN, JUDICIAL MEMBER

The applicant is at present working as adhoc Goods
Train Driver in the Southern Railway. He is aggrieved by
the promotion of respondents 4 to 29 to the cadre of Goods

Train Driver in preference to the applicant on an earlier date.

2. According to the applicant, he passed the promotional test held by the department on 15.1.1991. He is an Engineer Diploma Holder and has undergone apprentice training from 13.10.1986 to 2.2.1987. Respondents 20 to 29 are his juniors in the post of Diesel Assistants. For selecting 30 Diesel Drivers, an alert notice was issued to eligible officers but the applicant was not included in the list of persons allowed for the departmental test, though he was fully eligible to be included among the candidates. He filed Annexure-A3 representation and submitted that he has passed LM 16 Course and GRS course and hence he is fully qualified for selection as Goods Train Driver and eligible to attend written test. He also filed further representation. Without disposing of the representations selection and appointment was made. Relying on Annexure-A10 which prescribes specific conditions for making a Diesel Assistant eligible for promotion to the category of Goods Train Driver, the applicant submitted that the selection and appointment of respondents 4 to 29 is illegal. According to him, in addition to his pass in the departmental examination held satisfactorily, he satisfies all the eligibility conditions in Annexure-A10 dated 3.7.1992. The conditions are as follows:

"In terms of Rly. Bd's letter No.E(NG)1-84-PM7/93 dated 1.4.1987 and E(NG)1-91/PM7/38 dated 20.3.1992, if Shunters with 2 years service are not available Diesel Assistants, fulfilling the following conditions can be considered:

- i) Dsl. Assit. with 6 years service(combined as 11 FM)
- ii) Two years Service as Dl. Assit./1FM
- iii) 60,000 KMs experience of Foot plate."

3. Since the respondents 4 to 29 do not possess the aforesaid conditions of eligibility and criteria as contained in Annexure-A10, their selection, according to the applicant, is unsustainable. After the promotion of the respondents 4 to 29, as indicated above the applicant has filed Annexure-A2, A3 and A5 representations but they have not been disposed of so far. The applicant challenged Annexures-A6, A7 and A8 on the ground that these orders have been passed promoting officers included therein on a regular basis and if regular promotions are given to unqualified persons, applicants right to get earlier promotion would be adversely affected. He contended that these orders are liable to be set aside.

4. We have gone through the pleadings and the impugned orders. On a perusal of the orders, it is seen that appointments were made only on adhoc basis. Hence the contentions raised by the applicant can be accepted for quashing the orders at Annexure-A7 to A8. ~~cannot be accepted~~ But we are not expressing our final opinion on merits, particularly when his contention based on Annexure-A10 as stated above requires consideration. In that view it would be fair and proper to dispose of the application with appropriate directions, in the interest of justice. The learned counsel for applicant also submitted that the application can be

disposed of without going into the merits.

5. Accordingly, we accept the request of the applicant and dispose of the application with the following directions: The applicant shall file a detailed representation stating his grievance and his better claim for getting earlier promotion to the cadre of Goods Train Driver in preference to respondents 4 to 29 on the basis of Annexure-A10 relied on by the applicant. This shall be done within four weeks from the date of receipt of a copy of this judgement. If such a representation is received, the third respondent shall consider and dispose of the same in accordance with law within a period of three months from the date of receipt of a copy of representation.

6. The O.A. is disposed of as above. No costs.

Dated, the 11th October, 1993.

S/Canf.
(S KASIPANDIAN)
ADMINISTRATIVE MEMBER

N. Dharmadan
(N DHARMDAN)
JUDICIAL MEMBER
11.10.93

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List of Annexure

1. Annexure-A2 : True copy of representation of the applicant dated 2.5.1991
2. Annexure-A3 : True copy of representation of the applicant dated 31.5.1991
3. Annexure-A5 : True copy of representation of the applicant dated 2.7.1991
4. Annexure-A6 : True copy of order No.V/P 608/VI/ Goods/Driver Vol.I dated 21.8.1991
5. Annexure-A7 : True copy of office order No.12/91/RG dated 2.9.1991
6. Annexure-A8 : True copy of office order No.16/91/RG dated 2.12.1991
7. Annexure-A10 : True copy of an extract of para-5 of the office order No.14/92/RG. dated 8.7.1992