

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.57/93

Thursday, this the 11th day of November 1993

SHRI N.DHARMADAN, MEMBER (J)
SHRI S.KASIPANDIAN, MEMBER (A)

1. K.Annavi,
LTI No.324, PWI/TP,
Thindukarai, Kodiyalam P0,
Thiruchi Dt.
2. M.Santhanakrishnan,
LTI No.251/PWI/TP,
Keela Street Perugamani,
Thiruchi Dt.
3. A.Ganesan,
LTI No.127/927, PWI/TP,
Thindukari, Kodiyalam,
Thiruchi Dt. Applicants

By Advocate Shri P.Sivan Pillai

v/s

1. Union of India through
The General Manager,
SR, Madras-3.
2. The Divisional Personnel Officer,
SR, Palghat. Respondents

By Advocate Shri T.P.M.Ibrahim Khan, ACGSC.

ORDER

N.DHARMADAN

Applicants are casual employees having prior service as disclosed in para 4 of the O.A. They are aggrieved by the denial of reengagement and disposal of the representation filed by them.

2. According to the applicants, para 2003 of Indian Railway Establishment Manual provides for grant of temporary breaks on completion of continuous service of

specific number of days as provided therein after condoning the breaks. It reads as follows:-

"(d) On completion of works or for non-availability of further productive work, when casual labour on daily wages or in regular scale of pay or 1/30th of the minimum of the scale plus DA, is discontinued and employed later when work is available, such gaps in service will not count as breaks in service for the purpose of reckoning of continuous service of 120 days or 180 days or 360 days as the case may be."

3. Relying on this para, the applicants submit that they have already attained temporary status on 4.11.87, 30.9.87 and 29.9.87 respectively. Since the applicants were not reengaged considering their previous service they have filed Annexure-A2 representation praying that they may also be engaged along with their juniors and freshers. Applicants have also given a list of casual employees who had been given reengagement, having lesser number of days in their credit, even though they joined the Railway subsequent to the engagement of the applicants and they are juniors to the applicants. They have also relied on Annexure-A3 letter issued by the DPO in support of their claim. In the rejoinder applicants have pointed out the case of one Smt. Kamalamma who has been given the benefit of reengagement even though she worked for only one day on 20.10.77 under PWI/SRR. According to the applicants, if Smt. Kamalamma can be reengaged on 6.11.92 under PWI, Quilandi, the applicants can also be reengaged in the same manner. In other words, according to them, if a casual employee with one day service can be granted the benefit of reengagement there is no legal justification in denying the same benefit to the applicants.

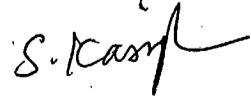
4. The respondents have fairly stated in the reply that the applicants have worked after 1.1.1981 and their names have been included in the Live Register so as to enable the respondents to consider their reengagement and

grant of work along with casual labourers when work is available along with freshers and juniors of the applicants.

5. In the light of the statement given by the respondents in the reply the only question now remains to be considered is about the seniority and regularisation of the applicants among the casual labourers who were already reengaged in the Railway as indicated in the OA and the rejoinder. The applicants have already filed Annexure-A2 representation before the General Manager, Southern Railway, Madras. It has not been disposed of so far.

6. Under these circumstances it will be fair and proper to dispose of the application in the interest of justice. Accordingly, having regard to the facts and circumstances stated above, we are inclined to dispose of the application with appropriate direction. We direct the General Manager, Southern Railway, Madras, before whom Annexure-A2 representation is pending for consideration, to consider the grievances of the applicants and pass appropriate orders on the same in accordance with law within a period of three months from the date of receipt of a copy of this judgment. The learned Central Government Counsel may forthwith forward a copy of the judgment with a copy of the O.A. to the General Manager, Southern Railway, Madras, so as to enable him to comply with the directions in the judgment. It goes without saying that if the General Manager, after considering the grievance of the applicants, finds that any of the juniors of the applicants, with reference to date of their engagement and the year thereof, has already been given the benefit of reengagement, the applicants shall also be given such benefit of reengagement with reference to the reengagement of such juniors.

7. The application is disposed of as above. No costs.



(S. KASIPANDIAN)
MEMBER (A)


N. DHARMADAN

MEMBER (J)

11. 11. 93