

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.562/2002

Friday this the 9th day of August, 2002

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

C.A.Dileepkumar,
S/o C.K.Appu, Lascar,
Southern Railway, Office of the Deputy
Chief Engineer (Construction)
Calicut, residing at
Chozhiattil House, PO.Mundur,
Trichur District.

...Applicant

(By Advocate Mr. Martin G.Thottan)

V.

1. Union of India, represented by
the General Manager, Southern Railway,
Headquarters Office, Chennai.3.
Park Town PO, Chennai.3.
2. The Divisional Railway Manager,
Southern Railway, Trivandrum Division,
Trivandrum.14.
3. The Senior Division Personnel Officer,
Southern Railway,
Trivandrum Division,
Trivandrum.14.
4. P.Vijayalakshmi
Lascar O/o the Section Engineer,
Southern Railway Works, Trivandrum.
5. G.Surendran Nair, Lascar
O/o the Section Engineer
Works, Trivandrum.
6. K.J.Samuel, Health Assistant Gr.II
Southern Railway Health Unit,
Kottayam.
7. M.Dinesan,
Peon, Personnel Branch,
Southern Railway,
Divisional Office, Trivandrum.
8. R.Gopalakrishna Pillai,
Peon, Reservation Office,
Southern Railway,
Trivandrum
9. P.S.Sureshkumar,
Peon, Southern Railway,
Works Branch, Divisional Office,
Trivandrum.

(Respondents 4 to 9 through the third respondent)

Contd.....

(By Advocate Mr. Thomas Mathew Nellimoottil, for R1-3)

The application having been heard on 9.8.2002, the Tribunal on the same day delivered the following:

O R D E R

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

The applicant who was appointed on compassionate grounds as Lascar in the Construction Organisation and working in the office of the Deputy Chief Engineer (Construction), Calicut filed OA 784/99 praying that the respondents be directed to assign him a lien in the post of Lascar in the Open Line and for a declaration that he is entitled to take part in the examination for promotion to the post of Office Clerk under the 33 1/3rd quota. The applicant was provisionally permitted to appear in the examination. The OA was disposed of on 4.10.2001.

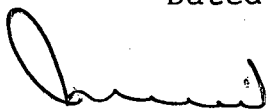
2. The present grievance of the applicant is that while six persons who according to him are junior in service have been placed in the panel, his name has not been placed. Therefore, the applicant has filed this application for the following reliefs:

- (a) Call for the records leading to the issue of Annexures.A8 and quash the same, or in the alternative,
- (b) Declare that the failure on the part of the respondents to include the applicant in Annexure.A1 panel is totally arbitrary, discriminatory and unconstitutional.
- (c) Direct the respondents to include the applicant's name at the appropriate place in Annexure.A1 and to grant all consequential benefits arising therefrom, from the date of promotion of his next junior in the panel.
- (d) Award costs of and incidental to this application. and
- (e) Pass such other orders or directions as deemed just fit and necessary in the facts and circumstances of the case. Contd....

3. We have heard Shri Martin G.Thottan, learned counsel for the applicant and Shri Thomas Mathew Nellimootil appearing for the official respondents. Apart from stating that the applicant has faired well in the examination and he expected to find his name in the panel, there is nothing on the basis of which we can conclude that the non-inclusion of the applicant's name in the panel is either arbitrary or against the rules. The applicant should have, if he had any apprehension that non-inclusion of his name in the panel was not for want of his efficient performance in the examination, he should have taken up the matter with the administration and probably they would have given him a reason for non-inclusion. If the reason so furnished by the respondents is found to be unsustainable, the applicant would have had a cause of action to approach this Tribunal.

4. Taking note of this situation, learned counsel of the applicant states that the applicant may be permitted to withdraw this application with permission to take up the matter with the second respondent. Permission is granted. Applicant may take up the matter with the respondents. We expect that if such a representation is received, an appropriate reply would be given to the applicant. No costs.

Dated the 9th day of August, 2002



T.N.T. NAYAR
ADMINISTRATIVE MEMBER

(S)



A.V. HARIDASAN
VICE CHAIRMAN

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A P P E N D I X

Applicant's Annexures:

1. A-1: True copy of the notification dated 10.3.99 issued by the 3rd respondent.
2. A-2: True copy of the letter No.V/P 531/XII/Office Clerk/Vol.VI dated 22.6.99 issued by the 3rd respondent.
3. A-3: True copy of the interim order dated 22.7.99 in OA No.784/99 by this Hon'ble Tribunal.
4. A-4: True copy of the order dated 4.10.2001 in OA 784/99 by this Hon'ble Tribunal.
5. A-5: True copy of the communication bearing No.V/P.531/XII/Office Clerk/Vol.VI dated 10.1.2002 issued by the 3rd respondent.
6. A-6: True copy of the letter No.V/P 531/XII/Office Clerk/Vol.VI dated 10.1.2002 issued by the Senior Divisional Personnel Officer.
7. A-7: True copy of the letter bearing No.V/P.531/XII/Office Clerk/Vol.II dated 25.4.02, issued by the 3rd respondent.
8. A-8: True copy of the office order No.19/2000/PG dated 4.6.2002 issued by the 3rd respondent.
9. A-9: True copy of the Railway Board's letter No.E(NG) 1/93/CFP/41 dated 7.4.94.
10. A-10: True copy of the Railway Board Order bearing No.118/92 dated 17.7.92.

npp
13.8.02