

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Original Application No.575/1986

D. Raghothaman,
Sr.Gangman, PWI/TVC Section,
(CAR/Budget Cell),
Southern Railway, Trivandrum. --- Applicant

Versus

1. The General Manager,
Southern Railway, Madras
2. The Divisional Manager,
Southern Railway, Trivandrum.
3. Sr.Divisional Engineer,
Southern Railway, Trivandrum.
4. Permanent Way Inspector,
Southern Railway,
Trivandrum Central. --- Respondents

M/s M.P.Krishnan Nair, T.G.Narayanan
Nair & A.Vijayakumar -- Counsel for Applicant

Mrs. Sumati Dandapani -- Counsel for Respondents

CORAM

Hon'ble Shri G.Sreedharan Nair-Judicial Member

ORDER

The applicant who was appointed in the Southern Railway in the year 1969 as a Khālesi was working at Mavelikara from 1973 as Substitute Gangman. While so on the formation of the Trivandrum Division, the applicant was directed to attend the Divisional Office Works Branch, Trivandrum in connection with some official work there. Thereafter the applicant was working in the Budget Section of the Divisional Office, Trivandrum. While so, by the order dated 16-7-1986 the applicant was directed to report back to the Permanent Way Inspector Trivandrum. The applicant challenges the said order as vindictive. It is alleged that more than 30% literat

Gangmen, who are juniors to the applicant continued to attend to clerical work, and the applicant has been singled out to be sent back to work in the line. It is prayed that the order be quashed.

In the reply filed on behalf of the respondents it is contended that though the applicant was working in the Divisional Office he used to receive his salary from the Permanent Way Inspector, Trivandrum and that there was no change of his status as Gangman. It is stated that the mere deployment of his service on a temporary measure will not confer on him any right for a promotion to the clerical cadre.

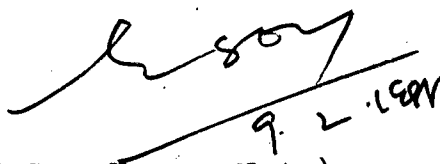
The relief that is claimed is only to enable the applicant to be continued in the Budget Cell at Trivandrum. It is not in dispute that though the applicant was only a Gangman, he was attending to clerical work in the Budget Cell. It is in evidence that ever since the formation of the Trivandrum Division, the applicant was being deputed only for clerical work and that it ~~is~~ continued for a fairly long period from 1979 till the impugned order was passed in 1986. No doubt,

being appointed as a Gangman, the applicant has no right to claim that he be allotted clerical work. But when it is on record that the applicant is admittedly literate ^{and} had been deployed for clerical work ^{for} ~~in~~ a continuous period of about 8 years the respondents are bound to explain as to why all of a sudden the impugned order was passed directing the applicant to report back to the line. The main ground that is urged in the application to assail the order is that more than 30 literate Gangmen who are juniors to the applicant are working in the office in clerical post and the applicant has been singled out for sending back to the line. This averment is not controverted in the reply and as such has to be taken as admitted. If so, the order directing the applicant to report back to the line cannot be sustained. I would hasten to add that it does not follow that the applicant has a right to continue for ever attending to the clerical work as long as he is only a Gangman. If ~~the~~ sufficient number of candidates are appointed to the clerical post the necessity of deputing gangmen to attend to clerical work may not arise at all. But

so long as any Gangman junior to the applicant is being retained to attend to the clerical work the applicant cannot be singled out as has been done by the impugned order.

In view of what is stated above, the order dated 16-07-1987 (copy of which is at Exbt.P.10) is hereby quashed.

The application is allowed as above.


(G. Sreedharan Nair)
Judicial Member
09-02-1988

Index: ~~Y~~/No

