

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

OA No. 59 of 2000

Wednesday, this the 5th day of April, 2000

CORAM

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER  
HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

1. V. Dhanapal, S/o Veerasami,  
Door No. 35/C, Anthonipuram,  
Oodai, Suramangalam,  
Salem-636005 ...Applicant

By Advocate Mr. P. Ramakrishnan

Versus

1. Union of India, represented by  
the General Manager,  
Southern Railway, Madras.
2. The Divisional Personnel Officer,  
Divisional Office, Personnel Branch,  
Southern Railway, Palakkad Division,  
Palakkad.
3. Assistant Personnel Officer,  
Divisional Office, Personnel Branch,  
Southern Railway, Palakkad Division,  
Palakkad. ...Respondents


By Advocate Mr. Thomas Mathew Nellimoottil

The application having been heard on 5th April, 2000,  
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

Learned counsel appearing for the applicant - submitted  
that the averments in Paras 4 and 5 of the reply statement  
that none of the juniors of the applicant is considered for  
appointment as Gangman as alleged by the applicant in the OA,  
that the last man engaged from the Live Register was having  
404 days of CLR service to his credit and his serial number is  
635, that the applicant is having 159 days of service and is  
placed as item No. 1153 in the Live Register, that



instructions have been issued by the Railway Board that there will be no fresh intake of Gangman since the revised norms of Gang strength is under issue and that the present Gang strength will suffice, may be recorded and the Original Application can be closed.

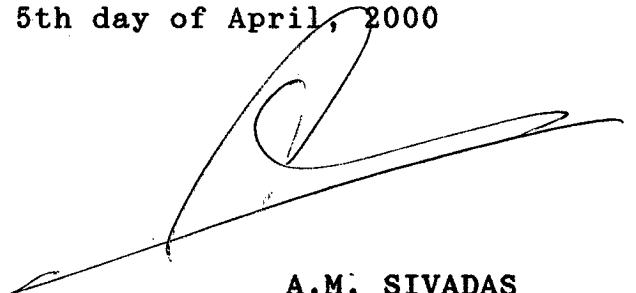
2. The averments in Paras 4 and 5 of the reply statement are recorded and the Original Application is closed accordingly. No costs.

Wednesday, this the 5th day of April, 2000



G. RAMAKRISHNAN  
ADMINISTRATIVE MEMBER

ak.



A.M. SIVADAS  
JUDICIAL MEMBER

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

R.A.No.19/2000 in O.A.No.59/2000

Thursday, this the 10th day of August, 2000.

CORAM

HON'BLE MR A.M. SIVADAS, JUDICIAL MEMBER  
HON'BLE MR G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

V. Dhanapal, S/o Veerasami,  
Door No.35/C, Anthonipuram,  
Oodai, Suramangalam ,  
Salem-636 005

Review Applicant

By Advocate Mr P. Ramakrishnan.

Vs.

1. Union of India rep. by the General Manager,  
Southern Railway,  
Madras.
2. The Divisional Personnel Officer,  
Divisional Office, Personnel Branch,  
Palakkad Division,  
Southern Railway, Palakkad.
3. Assistant Personnel Officer,  
Divisional Office, Personnel Branch,  
Southern Railway, Palakkad.

Respondents

O R D E R

HON'BLE MR A.M. SIVADAS, JUDICIAL MEMBER

The ground stated is that RA2 and RA3 could not be produced before this Tribunal at the time of hearing of the O.A. and RA2 would clearly show that the applicant has 1194 days of service to his credit instead of only 159 days of service as stated by the respondents in their reply statement.

2. According to review applicant, he was not able to contest the statement made by the respondents as the communication from his counsel informing him of the same had not reached to him.

3. When the O.A. came up for hearing it was submitted by the learned counsel for the applicant that the O.A. could be closed recording the averments in the reply statement filed by the respondents.

4. If it is the case of discovery of new and important matter or evidence, application on this ground must be treated with great caution and as required by Order 47, Rule 4(2)(b) CPC, the Tribunal must be satisfied that the materials placed before it in accordance with the formalities of the law do prove the existence of the facts alleged. Before the review is allowed on the ground of discovery of new evidence, it must be established that the applicant had acted with due diligence and that the existence of evidence was not within his knowledge. Where review is sought for on the ground of discovery of new evidence but it is found that the applicant had not acted with due diligence it is not open to the Tribunal to admit evidence on the ground of sufficient cause. It is not only the discovery of new and important evidence that entitles a party to apply for a review, but the discovery of any new and important matter which was not within the knowledge of the party when the order was made. There is no case for the applicant that RA2 and RA3 were not within his knowledge when the order was made.

5. If the applicant is relying on "any other sufficient reason" for review, the position is that a party who had an opportunity of raising a question and abandoned it cannot under ordinary circumstances be allowed to agitate the question in

review. It is not a sufficient reason for granting a review that if another opportunity is given to the applicant, he would satisfy the Tribunal that its previous order was wrong.

6. Accordingly, the Review Application is dismissed.

Dated the 10th of August, 2000.

Sd/-  
(G.RAMAKRISHNAN)  
ADMINISTRATIVE MEMBER

Sd/-  
(A.M.SIVADAS)  
JUDICIAL MEMBER

List of Annexures referred to in this order.

RA2 : True copy of Casual Labour Card issued to the applicant.

RA3: True copy of letter No.J/N 849/ELR dated 15.6.98 from 2nd respondent to the applicant.