

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

D.A.585/93

Tuesday, this the 19th day of July, 1994.

CORAM

HON'BLE MR S KASIPANDIAN, ADMINISTRATIVE MEMBER
HON'BLE MR P SURYAPRAKASAM, JUDICIAL MEMBER

Ross Chandra
Ex. Diesel Assistant
Southern Railway
Nagercoil.

... Applicant

By Advocate Mr R Santhoshkumar

Vs.

1. Union of India through the
General Manager, Southern Railway,
Madras-3.
2. The Chief Personnel Officer,
Southern Railway, Madras-3.
3. The Divisional Personnel Officer,
Southern Railway, Trivandrum-14.

... Respondents

By Advocate Mr PA Mohammed.

O R D E R

S KASIPANDIAN, ADMINISTRATIVE MEMBER

Applicant was working as a Diesel Assistant and in the periodical medical examination held on 10.6.92, he was de-categorised and unfitted in Class A1, A2, A3, B1 and B2 but he was found fit in Class C1 and below. Thereupon, the applicant filed a detailed representation as in Annexure A2. Therein he has brought out that even at the time of original appointment, he was physically handicaped on account of Polio attack and his minor deformity was there from the beginning he was appointed as a Diesel Assistant. In the representation he had prayed for an alternate appointment in equivalent grade with protection of pay and seniority. The equivalent pay according to the applicant for the scale of Rs 950-1500 in the category of running staff is Rs 1200 - 2040 in the category of Stationary Staff. The learned counsel for applicant argued that in the D.A. he had specifically pointed out two precedent cases of Shri Mathukutty, Diesel Assistant,

Erode and Shri V. Unnikrishnan, Diesel Assistant, Trivandrum who were similarly medically de-categorised and were appointed as Senior Clerk in the scale of Rs 1200 - 2040. The respondents have not controverted this claim of the applicant in the reply statement. The points raised by the applicant in the representation has also not been replied to by the respondents.

2 After having heard the learned counsel on both sides, we feel that the order at Annexure A3 is not sustainable in the light of the precedent cases quoted by the applicant and not controverted by the respondents. We, therefore, quash the impugned order at Annexure A3 and direct the respondents to consider the claim of the applicant for appointment as Senior Clerk in Class C1, similar to the two precedent cases quoted by him. It shall be implemented within two months from the date of receipt of a copy of the judgment. Application is disposed of ^{with} ~~by~~ the above directions.

3 There is no order as to costs.

Dated the 19th July, 1994.


P. SURYAPRAKASAM
JUDICIAL MEMBER


S. KASIPANDIAN
ADMINISTRATIVE MEMBER

List of Annexures

Annexure A2:- Representation dated: 3-3-93

Annexure A3:- No.V/P 268/II/Vol.I