

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.591/95

Thursday, this the 6th day of February, 1997.

C O R A M

HON'BLE MR PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER
HON'BLE MR AM SIVADAS, JUDICIAL MEMBER

....

1. P Kumaran, Tower Wagon Driver,
Office of the Traction Foreman/
Overhead Equipments/Traction Distribution,
Southern Railway, Salem Junction.
2. TN Sivankutty Nair, Tower Wagon Driver,
Office of the Traction Foreman/
Overhead Equipments/Traction Distribution,
Southern Railway, Erode.
3. KM Balasubramanian, Tower Wagon Driver,
Office of the Traction Foreman/
Overhead Equipments/Traction Distribution,
Southern Railway, Samalpatti.
4. Baburaj Valasseri, Tower Wagon Driver,
Office of the Traction Foreman/
Overhead Equipments/Traction Distribution,
Southern Railway, Bommidi.

....Applicants

By Advocate Shri TC Govinda Swamy.

vs

1. Union of India through the Secretary,
Ministry of Railways, Rail Bhawan,
New Delhi.
2. The General Manager,
Southern Railway,
Headquarters Office,
Park Town, Madras.
3. The Chief Personnel Officer,
Southern Railway,
Headquarters Office, Madras-3.
4. The Divisional Personnel Officer,
Southern Railway, Palghat.
5. The Chief Electrical Engineer,
Southern Railway, Madras-3.

....Respondents

By Advocate Shri Thomas Mathew Nellimoottil.

contd.

The application having been heard on 6th February, 1997, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

The applicants, who are Tower Wagon Drivers, approached this Tribunal in OA 898/93 and OA 156/94 challenging their reversion. The Tribunal, after quashing impugned orders (A-4 and A-5 in this OA-- A-6 and A-7 in OA 898/93) directed consideration of a representation made by the applicants and as a consequence the impugned order A-10 was passed. By A-10 order, it was decided that the applicants who were promoted from branches other than the Electrical Branch, would be provided lien in the Electrical Traction Distribution Branch (TRD for short) having been transferred as Khalasis/Khalasi Helpers before the closure of the cadre and would be assigned seniority with reference to their regular appointment in the parent cadre on the basis of the total service rendered in the respective grades as on 30.4.93. A-10 also states that they will be considered for further promotion in the Artisan Cadre in the Overhead Equipments/Power Supply Installation (OHE/PSI) Wing of the TRD, with reference to the seniority assigned to them in the cadre of Khalasis/Khalasi Helpers.

2. Applicants contend that A-10 has been issued without jurisdiction, since it goes against A-6 order issued with the approval of the President and which states that Tower Wagon Drivers shall be reclassified as Running Staff and will be paid running allowance at the rates applicable for Goods Drivers. According to applicants, it will be a contradiction to treat them as Skilled Artisans according to A-10 on the one hand, and

contd.

continue to pay them running allowance according to A-6 on the other. They, therefore, contend that A-6, being statutory, would have to prevail over A-10 which is not issued with the approval of the President. They pray that A-10 be quashed.

3. Respondents state that pursuant to the directions in OA 898/93 and OA 156/94, the General Manager has considered the representations of the applicants and have passed the impugned order A-10. Respondents state that four temporary posts of Tower Wagon Drivers were created in the initial stage and in order to fill up these vacancies, as a temporary measure, volunteers were called for from the staff of all the departments of Palghat Division, and the applicants were appointed, as an interim measure, without any right to continue in the post. According to the respondents, the posts of Tower Wagon Drivers would have to be filled up on the basis of the Scheme framed in consultation with the recognised Unions. The post of Tower Wagon Drivers was classified as ex-cadre post and filled up from serving employees working in the Traction Distribution Units, with prescribed minimum qualification. Consequent on the closure of the Traction Distribution Organisation from 30.4.93, the posts in the unit had to be filled up according to the recruitment rules laid down for each category with effect from 1.5.93. Respondents state that deployment of the applicants in the Electrical Department was purely on ad hoc basis to meet the requirements, subject to the condition that their lien would be maintained in the parent department and, therefore, they have to seek further promotion only according to the channel of promotion in the parent department.

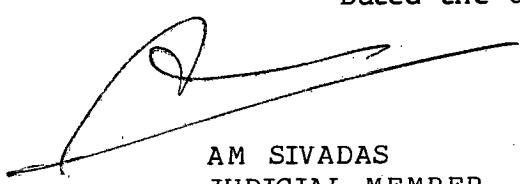
4. The contentions of the respondents with regard to the applicants being appointed, as an interim measure, and on an

ad hoc basis are not borne out by the appointment order A-1. The contention in the impugned order A-10 that applicants had been transferred as Khalasis/Khalasi Helpers before the closure of the cadre is also not borne out by the appointment order A-1. A-1 quite clearly states that it is a promotion which will take effect from the date of assuming higher responsibilities. Nowhere was it mentioned that the promotion was ad hoc or that it was only as an interim measure. There is also nothing in A-1 to show that the lien of the applicants is maintained in their parent cadres. The applicants were clearly in position as Tower Wagon Drivers promoted as such well before the closure of the cadre, which according to respondents, is on 1.5.93. That being so, they cannot be treated as ad hoc promotees who are having a lien in their parent department. Since the applicants had been appointed as Tower Wagon Drivers after proper selection and training well before the closure of the cadre, they have to be treated as holding cadre posts of Tower Wagon Drivers on the cadre being closed.

5. We also find that the classification of applicants as Skilled Artisans, who have to seek promotion to the Skilled Grade II in the scale of Rs.1200-1800, cannot be accepted since applicants were already in the scale of Rs.1200-1800. The classification of applicants as Skilled Artisans in A-10 also goes against A-6, having the force of statutory rules. Therefore, A-10 issued by the General Manager under Rule 124 of the Indian Railway Establishment Code without the approval of the President and being inconsistent with A-6 issued under Rule 123 with the approval of the President, cannot be sustained.

6. We accordingly quash A-10. Application is allowed.
No costs.

Dated the 6th February, 1997.


AM SIVADAS
JUDICIAL MEMBER


PV VENKATAKRISHNAN
ADMINISTRATIVE MEMBER

List of Annexures

1. Annexure A1:- A true copy of Office Order bearing No.J/P 535/Traction Distribution dated 5.3.91 issued by the fourth respondent
2. Annexure A4:- A true copy of order bearing No.P(S) 535/VII/TRD/PGT/Vol-II dated 15.4.93 with its enclosure issued by the third respondent
3. Annexure A5:- A true copy of letter No.P(S) 535/VII/38/TRD/PGT dated 7.8.91 with its enclosures communicated from the office of the third respondent.
4. Annexure A6:- A true copy of order No.E(P&A)11/78/RS-11 dated 10.4.91 issued by Railway Board
5. Annexure A10:- A true copy of letter No.P(S) 535/VII/TRD/PGT/Vol.II dated 6.3.95 issued by the third respondent.