

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.61 of 1999.

Thursday this the 23rd day of November, 2000.

CORAM:

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

HON'BLE MR G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

K. Velayudhan,
residing at Kezhapatt House,
P.O. Kadalundi Nagaram,
Malappuram District.

Applicant

(By Advocate Shri TC Govindaswamy Swamy)

Vs.

1. Union of India represented by
the General Manager,
Southern Railway,
Madras.

2. The Divisional Railway Manager,
Southern Railway, Palghat.

3. The Senior Divisional Personnel
Officer, Southern Railway,
Palghat.

Respondents

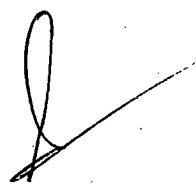
(By Advocate Shri Thomas Mathew Nellimoottil)

The application having been heard on 23.11.2000, the Tribunal
on the same day delivered the following:

O R D E R

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

The applicant seeks to set aside A-7 and A-8, to
direct the respondents to register his name in the appropriate
place in the live register of retrenched casual labourers to
re-engage him as Gangman with retrospective effect and to
consider him for appointment against the post of Diver in
Palghat Division consequent to the retrospective re-engagement
as Gangman.

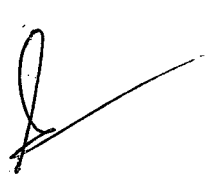


2. The applicant says that he is now working as a Coolie Porter. He was initially engaged as Mappila Khalasi on 8.11.73 and continued upto 27.6.76. Thereafter from 8.2.78 to 12.3.80 he was engaged as Khalasi at Mangalore in the same Division. A-1 to A-3 are his service cards including his engagement as Diver from 23.7.80 to 20.8.80 in Quilon under the Birdge Inspector. A-4 is another service card for having engaged him as Diver from 11.6.81 to 28.6.81 under the Chief Bridge Engineer, Madras and the 2nd respondent. He produced his casual labour cards on 19.12.95 in the office of the 2nd respondent. Subsequently he has been issued with A-7 order. When there was a vacant post of Diver, he approached this Bench of the Tribunal praying for a direction to the respondents to consider him to the said post. In pursuance to the directions contained in the said O.A., A-8 order was issued.

3. When the O.A. was taken up, learned counsel appearing for the applicant submitted that the relief for appointment as Diver in Palghat Division is not pressed. Since the same is not pressed, it was further submitted that the relief to set aside A-8 is also not pressed.

4. Now the question remains centering on A-7.

5. Respondents say that the applicant's casual service from 11.6.81 to 28.6.81 i.e. 18 days was taken into account

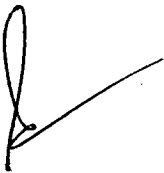


for placement in the live register. A mere look at A-1 to A-4 would show that the entries therein are inconsistent. A-1 to A-4 cannot be relied upon due to the inconsistency.

6. Applicant says that A-1 to A-4 are the casual labour cards issued to him. In A-1 it is shown that he has worked from 8.11.73 to 27.6.76. No particulars are given there. The age of the applicant is shown as 24 years in A-1. A-2 is another casual labour service card which shows that the applicant had worked from 8.2.78 to 12.3.80. It shows the various dates specifically the applicant has worked. There the age of the applicant is shown as 25 years.

7. A-3 is another casual labour card produced by the applicant. It shows that the applicant has worked from 23.7.80 to 20.8.80 i.e. for 29 days. There his age is shown as 26 years. A-4 is another casual labour card. As per the same, the applicant has worked in two stretches for the period from 11.6.81 to 20.6.81 and from 21.6.81 to 28.6.81. In A-4 the age of the applicant is shown as 27 years.

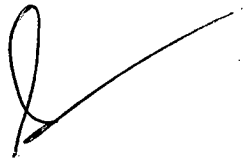
8. In the O.A., in the verification portion, the age of the applicant is shown as 48 years. The verification was made on 14.1.99. If the applicant was aged at 48 years as on 14.1.99, the entries regarding the age of the applicant shown in A-1 to A-4 cannot be correct. As per A-1, in the year 1976 the applicant was aged 24 years. As per A-2 in the year 1980 the applicant was aged at 25 years. As far as A-3 is



concerned, it is issued by the Bridge Inspector, Southern Railway, Quilon. Learned counsel appearing for the applicant submitted that Quilon does not fall within the jurisdiction of Palghat Division. On a perusal of A-1 to A-4 and considering the age shown in the verification portion of the O.A. the stand of the respondents that A-1 to A-4 cannot be relied upon due to inconsistency contained therein, is only to be accepted.

9. Respondents have taken a specific plea that when the applicant represented for revision of seniority claiming to have worked for more days, efforts were made by deputing a Welfare Inspector who contacted the various depots for verification of records for disposal of such representations and it was reported that no records are available and that the depot itself at Mangalore, is not in existence. It is also stated by the respondents that as per the instruction of the Chief Personnel Officer, Southern Railway, Madras contained in P(L)564/P/Vol.6 dated 17.6.83 for the purpose of screening/empanelment; only such services of casual labourers which is susceptible for verification with the authentic records should be taken into account for computing the total number of days worked and A-7 has been issued on that basis.

10. A-7 dated 19.6.98 says that there are no records available with the Railway Administration to prove that he has worked for 1745 days, that in fact records are available showing that he has worked only for 18 days, that the Welfare




Inspector was deputed to contact him to verify the genuineness of his claim and examine the same by finger print expert and that the applicant refused to hand over the same to the Welfare Inspector.

11. In the absence of records available with the administration genuineness of the records available with the applicant is to be tested. A1 to A4 available with the applicant do not appear to be reliable.

12. If the case of the applicant is true and if he firmly believes that A-1 to A4 are genuine it is not known why he was feeling shy to face the Welfare Inspector who was deputed to contact him to verify the genuineness of his claim.

13. The reasons stated by the applicant are that the applicant is responsible for the safe custody of the labour cards, that it is not proper for the respondents to say that the applicant has not handed over the labour cards without acquittance and that the Welfare Officer was a person unknown to the applicant. If the applicant wanted to get proper acquittance by production of labour cards to the Welfare Officer and the Welfare Officer refused the same, the applicant could have immediately reported to that fact to the concerned authority.

14. There is no case for the applicant that when he insisted for proper acknowledgement when the labour cards were

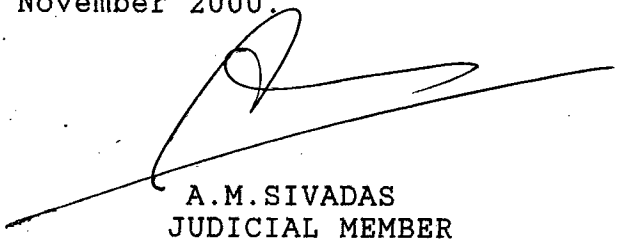


produced the Welfare Officer refused to do so. It appears rather to be an apprehension or imagination of the applicant that if he hands over the labour cards no acknowledgement will be issued. So, it is a case where the applicant never wanted to avail the opportunity offered to him by the department and now he wants to rely on those documents which he felt shy of producing before the Department's Officer the reason for which could only be that those documents are not genuine.

15. Accordingly, O.A. is dismissed. No costs.

Dated the 23rd November 2000.


G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER


A.M. SIVADAS
JUDICIAL MEMBER

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List of Annexures referred to in the order:

Annexure A-1: True copy of the Casual Labour Service card of the applicant showing his engagement from 8.11.73 to 27.6.76.

Annexure A-2: True copy of the Casual Labour Service Card of the applicant showing his engagement from 8.2.78 to 12.3.80.

Annexure A-3: True copy of the casual Labour Service Card of the applicant showing his engagement from 23.7.80 to 20.8.80.

Annexure A-4: True copy of the Casual Labour Service Card of the applicant showing his engagement from 11.6.81 to 28.6.81.

Annexure A-7: True copy of the order No. J/P-407/IX/CLR/LR/Grievances dated 19.6.98 of the 3rd respondent issued to the applicant.

Annexure A-8: True copy of the order No. J/P-O.A. 1002/98 dated 26.8.98 of the 3rd respondent issued to the applicant.