

CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O.A.600/91, O.A.1058/91 and O.A.1593/91

Monday this the 15th day of November, 1993.

CORAM:

HON'BLE MR.JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN

HON'BLE MR P.V.VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

In O.A.600/91

1. V.N.Mohan,  
Peon, Asstt.Engineer's Office,  
S.Railway,  
Shoranur.
2. P.K.Devadas,  
Watchman,  
C/o. Instructor,  
Training School,  
S.Railway,  
Shoranur.

... Applicants

By Advocate Mr.P.Sivan Pillai

vs.

1. Union of India through the  
General Manager, S.Railway,  
Madras-3.
2. The Sr.Divisional Personnel Officer,  
S.Railway, Palghat.
3. C.N. Balasubramanian  
C/o Sr.Divisional Personnel Officer,  
S.Railway, Palghat.
4. K.V.Kunjukunju,  
Courier  
-do-
5. P.K.Rama Gowda, J/M 2550,  
Lab Attendant  
-do-
6. K.K. Nanu,  
Store Watchman, PWI/SA(S)  
-do-
7. K.Krishnan, Store Watchman,  
PWI/SA(S)  
-do-
8. S.A.Abdul Nazeer,  
Store Watchman, PWI/SW/AAM. -do
9. A.K.Devadasan,  
Store Watchman,PWI/SW/AAM.
10. E.Rajendran, Store Watchman,  
PWI/SW/AAM.
11. P.P.Kunhan,  
Peon, Gnl.Br./PGT.
12. V.Balakrishnan,  
Peon, RH/PGT.  
-do-
13. P.K.Damodaran,  
J/MD 765  
-do-

... Respondents

By Advocate Shri M.C.Cherian for R1 and R2  
Shri Ashok M.Cherian for R9

In O.A.1058/91

1. M.Soman, Peon,  
General Branch,  
Divisional Officer, Southern Railway,  
Palakkad.
2. M.Gopal, Peon,  
Operating Branch, Divisional Office,  
Southern Railway, Palakkad.
3. C.Subbiah, Peon,  
Personnel Branch,  
Southern Railway, Palakkad.
4. Ramachandran.K.V, Peon,  
Personnel Branch,  
Southern Railway, Palakkad.
5. C.Kannappan,Peon,  
Divisional Office,  
Southern Railway, Palakkad. .... Applicants

By Advocate Mr.P.Santhoshkumar

vs.

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

By Advocate Mr.M.C.Cherian

In O.A. 1593/91

P.E.Vasudevan,  
Record Sorter(ad hoc)  
Executive Engineers Office,  
Southern Railway(Construction),  
Trichur. .... Applicant

By Advocate Shri K.Padmanabhan

vs.

1. Union of India represented by  
the General Manager, Southern Railway,  
Madras-3.
2. Senior Personnel Officer,  
Southern Railway,  
Palghat. .... Respondents

By Advocate Mr.M.C.Cherian

ORDER

CHETTUR SANKARAN NAIR(J), VICE CHAIRMAN:

Contentions raised in these applications are similar, and so are the reliefs claimed. They are therefore, disposed of by a common judgment.

2. We refer to the facts of O.A.600/91, and only that will be necessary for purpose of deciding the batch of three cases.

3. Applicants are a Peon and a Watchman belonging to Group D category. 33 1/3 per cent of the vacancies arising in Group C are reserved for category of Group D employees, who satisfy certain qualifications. Para 110 of the Indian Railway Establishment Manual governs the promotion to this category and lays down the qualifications. We are concerned only with one of these, for our immediate purpose.

Rule 110(a) states:-

"Railway servants in Class IV categories (Group D) for whom no regular avenue of promotion exists, 25 per cent of the vacancies in the lowest grade of Commercial Clerks, Ticket Collectors, Train Clerks, Number Takers, Time Keepers, Fuel Checkers, Office Clerks, Accounts Clerks, Typists and Store Clerks etc. should be earmarked for promotion, subject to the following conditions. .... ...."

(emphasis supplied)

4. Case of applicant, inter alia, is that Respondents 5, 8, 9 and 10 are ineligible to be considered for promotion and that they have been considered and selected. If ineligible persons are selected, the selection is vitiated for more reasons than one. It denies promotion to those who could legitimately aspire for promotion and it grants promotion to those who are ineligible to be promoted.

5. Respondents 5 & 8 are Laboratory Assistants. They can qualify for promotion under paragraph 110(a), if only they have "no regular avenue of promotion". According to applicants, they have regular avenues of promotion, as Laboratory Assistants, to 50 per cent of the posts in that category. This position is not disputed by Respondent-railways. But, they would only say that such persons must have additional qualifications to be considered. Respondents do not have a case that these persons lack the qualification. Obviously, without application of mind, Respondents 5 and 8 were selected. So long as

para 165(1) of the Indian Railway Establishment Manual reserves 50 per cent of the posts of Laboratory Assistants, for those in the category of Respondents 5 and 8, so long, Railways will have to show that these respondents are ineligible for promotion for want of qualifications, and that they fall under para 110(1). They have not done this.

6. Respondents 9 and 10 are Gangmen. Gangmen have promotional avenues, as can be seen from para 181 of the Indian Railway Establishment Manual. They were temporarily working as Store Watchmen. Notwithstanding that, they retain their lien in the category of Gangmen and they are eligible to be promoted as Gang mates, Keymen etc. In fact Annexure 11 shows that they were considered for promotion. It follows that ineligible persons like Respondents 9 and 10 have been empanelled. Prima facie, Respondents 5 & 8 are also ineligible.

7. Therefore, the promotions challenged have to be quashed. We do so, and direct the competent authority to consider the matter afresh, in the light of the rules governing promotions and also with notice to those who are selected and who are now in position. However, such persons will not be dislocated and they will be allowed to continue in their present posts, until a decision is taken, as indicated aforesaid, which will be done within three months from today.

8. There are other contentions, based on seniority etc. We do not propose to go into these. However, if objections are raised on the basis of these, it will be for the authority to consider them. Respondents will publish the seniority list for purpose relevant to para 110(a), if not already published, before selections are made, as aforesaid.

9. Applications are allowed. Parties will suffer their costs.

Dated the 15th November, 1993.

  
P.V. VENKATAKRISHNAN  
ADMINISTRATIVE MEMBER

  
CHETTUR SANKARAN NAIR(J)  
VICE CHAIRMAN