

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

O.A.No.608/08

Tuesday this the 16<sup>th</sup> day of June 2009

**C O R A M :**

**HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER**

1. N.Gireesan,  
S/o.Neelakantapillai,  
Ex-Casual Labourer,  
Southern Railway, Trivandrum Division.  
Residing at Door No.4/117,  
Indira Bhavan, Kalkurichi,  
Thuckalay P.O., Kanyakumari Dist.
2. V.Krishnapillai,  
S/o.Velayudhan Pillai,  
Ex-Casual Labourer,  
Southern Railway, Trivandrum Division.  
Residing at Chunkankadai,  
Aloor P.O., Kanyakumari Dist.
3. F.Mariarose,  
S/o.Francis,  
Aarokya Nagar,  
Ex-Casual Labourer,  
Southern Railway, Trivandrum Division.  
Muthalaskurchai, Near Kurishedi,  
Thuckalay, Kanyakumari Dist – 629 175.

...Applicants

(By Advocate Mr.N.Mahesh)

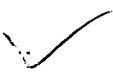
**Versus**

1. Union of India represented by the General Manager,  
Southern Railway, Headquarters Office,  
Park Town P.O., Chennai – 3.
2. The Senior Divisional Personnel Officer,  
Southern Railway, Trivandrum Division,  
Trivandrum.
3. The Chairman,  
Railway Board,  
Railway Bhavan, New Delhi.

...Respondents

(By Advocate Ms.P.K.Nandini)

This application having been heard on 16<sup>th</sup> June 2009 the Tribunal on the same day delivered the following :-



**ORDER****HON'BLE Mr. GEORGE PARACKEN, JUDICIAL MEMBER**

The applicants' grievance is that their request for regularisation have not been considered by the respondents. According to the applicants, they are retrenched casual labourers of the Civil Engineering Department of Southern Railway, Trivandrum Division, Trivandrum. They have submitted that in terms of the judgments of the Apex Court in Inder Pal Yadav Vs. Union of India and others [1985 SCC (L&S) 526] and Dakshin Railway Employees' Union, Trivandrum and others Vs. General Manager, Southern Railway and others reported in 1987 (1) SCC 677, they are entitled to be absorbed against regular vacancies in Group 'D' category of the Railways. They have also submitted that they have made Annexure A-1 representation dated 2.4.2002 and Annexure A-2 representation dated 10.4.2008. However, the respondents have not replied to the same.

2. Respondents in their reply statement submitted that the applicants have not proved that they were retrenched casual labourers of the Trivandrum Division. They have also not produced any Service Labour Cards issued to them.

3. In the absence of the counsel for the applicants as well as the respondents, I have gone through the pleadings on record. The applicants have not produced any records to show that they were retrenched casual labourers working under the respondents Railways. Secondly, they have made Annexure A-1 representation on 2.4.2002. Thereafter they have kept quite for at least six years and suddenly made the Annexure A-2 representation on 10.4.2008 before filing this Original Application before this Tribunal on 22.10.2008.



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4. In the aforesaid facts and circumstances of the case, I consider that there is no merit in this case. Further this application is badly hit by limitation. I, therefore, dismiss this O.A both on merits as well as on limitation. There shall be no order as to costs.

(Dated this the 16<sup>th</sup> day of June 2009)

  
**GEORGE PARACKEN**  
**JUDICIAL MEMBER**

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CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH  
O.A. NO.608/2008

Dated this the 10<sup>th</sup> day of April, 2012

C O R A M

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

- 1 N.Gireesan, S/o Neelakantapillai, Ex-Casual Labourer  
Southern Rly, Trivandrum Division, R/o Door No.4/117  
Indira Bhavan, Kalkurichi, Thuckalay P.O, Kanyakumari.
  - 2 V.Krishnapillai, S/o Velayudhan Pillai, Ex-Casual Labourer  
Southern Rly, Trivandrum Division, R/o Chunkankadai  
Aloor P.O, Kanaykumari.
  - 3 F.Mariarose, S/o Francis, Aarokya Nagar, Ex-Casual  
Labourer, Southern Rly, Trivandrum Division, R/o  
Muthalaskurchai, Near Kurishedi Thuckalay, Kanyakumari.
- ...Applicants

(Mr.N.Mahesh, Advocate)

Vs.

- 1 Union of India represented by the General Manager  
Southern Railway, Headquarters Office, Chennai-3.
  - 2 The Sr.Divisional Personnel Officer, Southern Railway,  
Trivandrum Division, Trivandrum.
  - 3 The Chairman, Railway Board, Railway Bhavan, New Delhi.
- Respondents
- (By Advocate Mr Thomas Mathew Nellimoottil)

The application having been heard on 30.3.2012 and the Tribunal held as under:

O R D E R

HON'BLE Mrs.K.NOORJEHAN, ADMINISTRATIVE MEMBER

The applicants who are retrenched casual labourers of Trivandrum Division of Southern Railway, seek a declaration that they are entitled to be considered for re-engagement/absorption as Gangman (Trackmen).



2 According to the applicants, they were initially engaged as casual labourers. While working as Gangman (Trackmen) in the Civil Engineering Department of Trivandrum Division of Southern Railway, they were retrenched on 7.10.1980, 6.11.1980 and 5.12.1988 respectively. It is alleged that similarly situated persons were re-engaged in service by the respondents whereas the representations submitted by them did not receive any attention. In the light of the decision of the Apex Court in Indrapal Yadav and Ors Vs. Union of India and Ors, reported in 1985 SCC (L&S) 526 , Dakshin Railway Employees Union, Trivandrum Vs. General Manager, Southern Railway & Ors and in WPC No.382 of 1986 dated 23.2.1987, a scheme was framed by the respondents and approved by the Hon'ble Supreme Court. According to the said scheme casual labourers having a minimum of 360 days of casual service are entitled to be considered for absorption irrespective of their age. The grievance is that they were not considered for re-engagement/absorption. Hence they filed this Application for a declaration that they are entitled to be considered for absorption in a Group-D with all consequential benefits. They have also relied on the judgment of the Hon'ble High Court of Kerala in OP 2668 of 2011.

3 The respondents opposed the Application on Limitation and non-impleadment of necessary parties. It is further submitted that the applicants have not produced any proof to show that they are retrenched casual labourers of Trivandrum Division. They failed to show their seniority position in the list of the retrenched casual labourers. They emphatically denied, receipt of representation dated 2.4.2002 from the applicants.

4 Heard the learned counsel for the parties and perused the record and judgments in this case.

5 The applicants filed MA No.366/12 and produced Annx.A3 to A6 to show that they were engaged as casual labourers. The first applicant submitted Annx.A3 which is an affidavit and Annx.A4 which is a certificate from the Storekeeper, Palayankottai, to show that he worked from 28.6.80

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to 7.10.80, under PWI/ Construction/Nagarcoil. The 2<sup>nd</sup> applicants' services were utilised as casual labour from 6.1.79 to 5.10.1980 in the Nagarcoil Construction Unit. He was disengaged on completion of work. He produced a copy of casual labour service card (Annx.A5). The 3<sup>rd</sup> applicant too was engaged by PWI/Construction/Nagarcoil for the same project from 29.1.1979 to 5.12.1980 (Annx.A6). The applicants aver that they are borne in the seniority list but could not show seniority position assigned to them. During the course of argument, the learned counsel for the applicant brought to my notice a recent decision of this Tribunal in OA 72/2010 dated 15.3.2011, in the case of S.M.Peer Mohamed & Anr. Vs. Union of India & Anr. Applicants in the O.A (supra) are similarly placed like the present applicant. This case is squarely covered by the decision of the Division Bench in which I am one of the Members. OA 72/2010 was upheld by the Hon'ble High Court of Kerala in OP (CAT) No.1979 of 2011. The relevant portion is extracted below:

"The Tribunal noticed that the omission to respond to the notification does not deprive the first respondent of his eligibility for re-employment. So long as CAT has not ordered employment with retrospective effect, we do not find any grievance for the Railways because if first respondent had responded to the notification, he would have got job.... Seniority necessarily has to be granted to the first respondent from the date of order of the CAT based on which he is going to be appointed."

6 In view of the above, I direct the respondents to consider the applicants for absorption subject to the requisite medical fitness, within a period of three months from the date of receipt of a copy of this order. The appointment when it takes place shall be prospective, from the date of the order. The O.A is allowed. No costs.

(Dated 10<sup>th</sup> April, 2012)

  
(K. NOORJEHAN)  
ADMINISTRATIVE MEMBER

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**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

O.A.No.608/08

Tuesday..... this the 18<sup>th</sup> day of December 2012

**C O R A M :**

**HON'BLE Ms.K.NOORJEHAN, ADMINISTRATIVE MEMBER**

1. N.Gireesan,  
S/o.Neelakantapillai,  
Ex-Casual Labourer,  
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Permanent Address : Door No.4/117,  
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(By Advocate Mr.N.Mahesh)

**V e r s u s**

1. Union of India represented by the General Manager,  
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2. The Senior Divisional Personal Officer,  
Southern Railway, Trivandrum Division,  
Trivandrum.
3. The Chairman,  
Railway Board, Railway Bhavan, New Delhi. ...Respondents

(By Advocate Mr.Thomas Mathew Nellimoottil)

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This application having been heard on 10<sup>th</sup> December 2012 this Tribunal on (8)12.12 December 2012 delivered the following :-

**ORDER**

**HON'BLE Ms.K.NOORJEHAN, ADMINISTRATIVE MEMBER**

The applicants have filed this O.A praying for a direction to the respondents to consider their requests for regular absorption relaxing the upper age limit.

2. The applicants aver that they were working in the vacancies of Gangman/Trackman as Casual Labourers during the period from 1979 to 1980. According to them, they are borne in the seniority list of Casual Labourers, Trivandrum Division, and hence they are entitled to be absorbed against regular vacancies in Group D category as per the judgment of the Apex Court in Indrapal Yadav & Ors. Vs. Union of India & Ors. reported in 1985 2 SCC 648 and Dakshin Railway Employees Union, Trivandrum Division Vs. General Manager, Southern Railway & Ors reported in 1987 1 SCC 677. They submitted that Annexure A-1 and Annexure A-2 representations dated 2.4.2002 and 10.4.2008 respectively did not elicit any reply from the respondents.

3. The respondents contested the O.A and filed reply statement. They submitted that the applicants have not stated their placement/position in the concerned seniority list of casual labourers. They have also not annexed their casual labourer service cards to prove that they are retrenched casual labourers of Trivandrum Division. They denied that they have received any representations from them and





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pointed out that Annexure A-1 representation is dated 2.4.2002. Therefore, the respondents have taken up the contention that the O.A is hit by limitation.

4. Arguments were heard and records perused. This is second round of litigation. The O.A was initially dismissed on both merits as well as limitation on 16.6.2009. However, the Hon'ble High Court of Kerala has remanded the matter back to the Tribunal with a direction to give an opportunity to the applicants to produce the original casual labourer service cards. Accordingly, the case was re-heard. At the time of final hearing the counsel for the applicant pleaded that the applicants are similarly situated like the applicant in O.A.No.72/10 which was decided on 15.3.2011. The applicants have also filed M.A.366/12 and produced copies of the casual labourer service cards to prove that the first, second and third applicant were working for periods from 28.6.1980 to 7.10.1980, 6.1.1979 to 5.10.1980 and 29.1.1979 to 5.12.1980 respectively under PWI/Construction/Nagercoil. Therefore, the O.A was disposed of with a direction to the respondents to consider the absorption of the applicants subject to other eligibility conditions if they are similarly situated like the applicant in O.A.72/10.

5. The respondents in the O.A filed R.A.41/12 to point out that the applicants in the present O.A are not similarly situated like the applicant in O.A.72/10 since the names of the applicants are not available in the seniority list of casual labourers retrenched prior to 1.1.1981. They added that the O.As of all the applicants whose names are not available in the



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seniority list of casual labourers were dismissed by this Tribunal and the orders of the Tribunal were upheld by the Hon'ble High Court of Kerala. They clarified that the applicants being pre 1.1.1981 casual labourers should have registered their names for inclusion in the live register prior to 31.3.1987 as per the law laid down by the Hon'ble Supreme Court in Dakshin Railway Employees Union, Trivandrum Division Vs. General Manager, Southern Railway & Ors. The R.A was allowed and the O.A was re-heard.

6. During the hearing of the O.A., the respondents have produced a copy of the order of the Coordinate Bench of this Tribunal in O.A.255/12 dealing with an identical issue. The O.A was dismissed. In the said order a reference is made to O.A.Nos.211/96, 1275/96, 89/97, 598/00, 598/03, 657/07, 769/07 and 198/08 where similar issues were under consideration. All these O.As were dismissed. It is seen that the applicants have failed to register their names for inclusion in the live register of casual labourers before the cut off date of 31.3.1987.

7. In view of the foregoing, I respectfully follow the order of the Coordinate Benches in the O.As referred to above. Accordingly, this O.A is dismissed. No costs.

(Dated this the 18<sup>th</sup> day of December 2012)



**K.NOORJEHAN**  
**ADMINISTRATIVE MEMBER**

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