

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.610/05

Thursday this the 18th day of August 2005

C O R A M :

HON'BLE MR.K.V.SACHIDANANDAN, JUDICIAL MEMBER

1. V.Rajendran,
S/o.Velayudhan Assari,
Ex-casual Labourer, Southern Railway,
Trivandrum Division.
Permanent Address : Mankuzhi Road,
Chanal Karai, Monday Market,
Neyoor P.O., Kanyakumari District.
2. K.Padmanabha Das,
S/o.Kalipillai,
Ex-casual Labourer, Southern Railway,
Trivandrum Division.
Permanent Address : Krishnavahai,
Chemmankadai P.O., Villikkuri,
Kanyakumari District.
3. P.Micheal George,
S/o.Pankiyaraj,
Ex-casual Labourer, Southern Railway,
Trivandrum Division.
Permanent Address : 17/22A, Aluvilai,
Kandan Vilai, Kandanvilai P.O.,
Kanyakumari District.
4. N.Murugan,
S/o.Nadankannu Nadar,
Ex-casual Labourer, Southern Railway,
Trivandrum Division.
Permanent Address : Kannattuvilai,
Kannattuvilai P.O., Eranie Village,
Kanyakumari District.
5. T.Padmanapa Pillai,
S/o.Thenn Pillai,
Ex-casual Labourer, Southern Railway,
Trivandrum Division.
Permanent Address : Krishna Vahai,
Eranie Melakonam, Eranie Village,
Neyoor, Kanyakumari District.
6. S.Thenga Velu,
S/o.Sankaran Nadar,
Ex-casual Labourer, Southern Railway,
Trivandrum Division.
Permanent Address : 110-A,
Kanjira Vilai, Eranie, Neyoor P.O.,
Kanyakumari District.



7. C.Raja Rathinam,
S/o.CheLLaya Nadar,
Ex-casual Labourer, Southern Railway,
Trivandrum Division.
Permanent Address : NeLLan Vilai,
Mandacaud - 629 252. Kanyakumari.
8. S.Sounder Dhas,
S/o.Swami Kan,
Ex-casual Labourer, Southern Railway,
Trivandrum Division.
Permanent Address : 967/P 43/2-1,
Rani Thottam, North Street,
Nesamony Nagar, Nagercoil, Kanyakumari.
9. V Regh Natham,
S/o.Velaiyudhan Pillai,
Ex-casual Labourer, Southern Railway,
Trivandrum Division.
Permanent Address : Ethan Kadu,
Vellichanthai P.O., Kalkulam,
Kanyakumari District.
10. K.Velaiyappa,
S/o.Krishnan Nadar,
Ex-casual Labourer, Southern Railway,
Trivandrum Division.
Permanent Address : Nankavilai,
Karaykad P.O., Karangadi P.O.,
Kuruthamkodu, Kalkulam,
Kanyakumari District.

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 Mrs.Sumathi Dandapani)

This application having been heard on 18th August 2005 the
Tribunal on the same day delivered the following :

O R D E R

HON'BLE MR.K.V.SACHIDANANDAN, JUDICIAL MEMBER

The applicants are persons borne in the seniority list of



retrenched casual labourers of the Civil Engineering Department of Southern Railway, Trivandrum Division. According to the applicant the seniority list was prepared for eventual absorption against Group D vacancies of Gangman (Trackman) as per a scheme framed and approved by the Hon'ble Supreme Court in Inderpal Yadav and others Vs. Union of India and others reported in 1985 SCC (L&S) 526. It is stated that in terms of the above decision the applicants are entitled to be absorbed against regular vacancies in Group D category (Gangman) and that these provisions are also incorporated in para 179 (iii) (c) of the Railway Establishment Manual. Accordingly the applicants were called to the Divisional Office at Trivandrum for eventual absorption. All the applicants attended the office and furnished all the required details but they have not been considered yet. Counsel for the applicants submitted that the applicants send a lawyer's notice to the respondents for absorption on 4.7.2003 which also has not been responded to. Aggrieved the applicants have filed this application seeking the following reliefs :-

- a. Declare that the action of the respondents in not considering the applicants for regular absorption on the ground that they have crossed the age limit of 43 years (OBC) is totally arbitrary, discriminatory and unconstitutional.
- b. Declare that the respondents are bound to consider the applicants for regular absorption against the vacancies of Trackman/Gangman without any age limit and direct the respondents to grant the consequential benefits thereof.

2. When the matter came up for hearing Shri.N.Mahesh appeared for the applicants and Smt.Sumathi Dandapani appeared for the respondents. Counsel for the applicants submitted that the matter has been covered by Annexure A-3 order and further submitted that the application may be disposed of permitting the



applicants to make a comprehensive representation to the respondents and directing the respondents to consider and dispose of the said representation within a time frame. Counsel for the respondents opposed this on the ground that the claim of the applicants is barred by limitation. However, this Court is of the view that if the applicants have subsisting rights to be considered and if the lawyer notice is considered as a representation which has not been responded to, the respondents were not justified in taking up such a contention.

3. In the light of what is stated above I am of the view that that since no adjudication is required in the matter if it is covered by Annexure A-3 order no prejudice will be caused to the respondents if a direction is given to consider the representation of the applicants. Therefore, I direct the applicants to make a comprehensive representation to the 2nd respondent within a time frame of ten days from the date of receipt of a copy of this order and directing the 2nd respondent that if such a representation is received the same shall be considered and disposed of within a time frame of one month from the date of receipt of a copy of the representation. The OA is disposed of accordingly. In the circumstances, no order as to costs.

(Dated the 18th day of August 2005)



K.V. SACHIDANANDAN
JUDICIAL MEMBER