

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 611 of 2011
with
Misc. Application No. 631 of 2011

Tuesday, this the 15th day of November, 2011

CORAM:

HON'BLE Mr. JUSTICE P.R. RAMAN, JUDICIAL MEMBER
HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER

C. Johnson,
S/o. Chellakkon,
Bearer, O/o. Senior Divisional
Commercial Manager,
Southern Railway, Trivandrum,
Residing at Kesavan Vilai,
Kamaraj Street, Marthandom,
Kanyakumari District : 629 125
... Applicant.

(By Advocate Mr. M.P. Varkey)

versus

1. Union of India, represented
General Manager, Southern Railway,
Chennai : 600 003
2. Chief Personnel Officer,
Southern Railway, Chennai : 600 003
3. Sr. Divisional Personnel Officer,
Southern Railway, Chennai : 600 003

(By Advocate Mr. Thomas Mathew Nellimoottil)

This application having been heard on 09.11.2011, the Tribunal on 15.11.11 delivered the following :-

ORDER

HON'BLE Mr. K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER

This O.A. has been filed by the applicant for a direction to the respondents to revise the seniority based Annexures A-1 and A-2 panels both



dated 12.01.2007 on the basis of marks obtained in the written test for promotion as Ticket Collector and to consider him for absorption as Ticket Collector if he gets included in the revised panel.

2. M.A. No. 631/2011 in the above O.A. has been filed praying for condonation of delay of 3 years 5 months and 22 days in filing the O.A. for the following reasons.

3. On coming to know that some of the incumbents in Annexures A1 and A2 panels had lower marks than the applicant, he immediately filed Annexure A-4 representation dated 29.11.2010, which remains undisposed. Being a Group-D employee, he ~~as~~ had no means of knowing and understanding the Apex Court decision and Railway Board orders that merit and not seniority shall govern selection. Therefore, the delay may be condoned.

4. The respondents submitted that the employees selected as per Annexures A-1 and A-2 panels have joined the promotion posts in the year 2007 and few of them have got further promotion too. Annexure A-1 panel was based on merit-cum-seniority and Annexure A-2 panel was based on merit only. Though the applicant could not get selection in Annexure A-1 panel, he would have got selected in A-2 panel, had he secured more marks than the selected candidates. Reopening the panel at this juncture will unsettle the already settled position. The judgement of the Apex Court in Ram Jayaram's case (1996 (1) SC SLJ 536), has been in existence since 1996. Ignorance of law is not an excuse that can be accepted. He has not impleaded any of the affected parties. The Ministry of Railways letter No.

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E(NG)/I-2008/PM7/1/4/SLP dated 19.06.2009 prescribes that the instructions in regard to preparation of panel should be strictly on merit and that they should be applicable from the date of issue of the orders.

5. Heard the learned counsel for the parties.

6. On carefully considering the rival contentions, we find that the explanation of the applicant that he had no means of knowing the decision of the Apex Court and the Railway Board orders is not a proper explanation for condoning the delay. He has not explained why he could not avail of the remedy of redressal of his grievances before expiry of the period prescribed under sub Sections (1) and (2) of the Section 21 of the Central Administrative Tribunals Act, 1985. Ignorance cannot be accepted as a justifiable reason for filing the O.A belatedly by 3 years, 5 months and 22 days. Settled position cannot be unsettled on the basis of late awareness. The applicant has failed to put forth any convincing reason for condoning a long delay in filing this O.A. Therefore, the M.A. No. 631/2011 in O.A. No. 611/2011 is dismissed.

7. Hit by limitation, the O.A. No. 611/2011 is dismissed with no order as to costs.

(Dated, the 15th November, 2011)



K.GEORGE JOSEPH
ADMINISTRATIVE MEMBER



JUSTICE P.R.RAMAN
JUDICIAL MEMBER

cvr