

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. Nos. 635/97, 636/97, 616/97 & O.A.833/97.

Monday this the 28th day of August 2000.

CORAM:

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

HON'BLE MR. V.K. MAJOTRA, ADMINISTRATIVE MEMBER

O.A. 635/97:

M. L. Shaji,
Technical Mate,
Southern Railway,
Office of the Executive Engineer,
Double Line, Quilon.

: Applicant

(By Advocate Shri T.C. Govindaswamy)

Vs.

1. Union of India through
the Secretary to the Government of India,
Ministry of Railways,
Rail Bhavan, New Delhi.

2. The Chief Engineer, Construction,
Southern Railway,
Madras Egmore, Madras -8.

3. The General Manager,
Southern Railway,
Headquarters Office,
Madras -3.

4. The Senior Divisional Personnel Officer,
Southern Railway,
Trivandrum Division,
Trivandrum -14.

: Respondents

(By Advocate Smt. Sumathi Dandapani)

O.A. 636/97:

1. Anil J.R.,
Technical Mate,
Southern Railway,
Office of the Executive Engineer,
Construction, Kayamkulam.

2. G. Madhusudhanan Nair,
Technical Mate,
Southern Railway,
New Railway Bridge Site,
Kappil P.O.,
Edava, Trivandrum.

3. P. Rajendran Nair,
Technical Mate,
Southern Railway,
Office of the Inspector of Works,
Construction, Ernakulam.

4. V. Suresh,
Technical Mate,
Southern Railway,
Office of the Divisional Electrical Engineer,
Construction, Ernakulam.
5. S. Radhakrishnan,
Technical Mate,
Southern Railway,
Office of the Electrical Engineer,
Construction, Ernakulam.
6. S. Murukakumar,
Technical Mate,
Southern Railway,
Office of the Divisional Electrical Engineer,
Ernakulam.
7. Smt. Susha Mathew,
Technical Mate,
Southern Railway,
Office of the Assistant Engineer,
Construction, Ernakulam.
8. N.P. Varghese,
Technical Mate,
Southern Railway,
Office of the Chief Inspector of Works,
Construction, Trichur.
9. Smt. Juby Joseph,
Technical Mate,
Southern Railway,
Office of the Assistant Engineer,
Construction, Trichur.
10. S. Sasidharan,
Technical Mate,
Southern Railway,
Office of the Inspector of Works,
Construction, Punnappra,
Alleppey.
11. Punnoose Kurian,
Technical Mate,
Southern Railway,
Office of the Assistant Engineer,
Construction, Ernakulam.
12. V.A. Mohammed,
Technical Mate,
Southern Railway,
Office of the Inspector of Works,
Construction, Alleppey.
13. K. Prakash,
Technical Mate,
Southern Railway,
Office of the Divisional Electrical Engineer,
Construction, Ernakulam.
14. P.S. Kuruvila,
Technical Mate,
Southern Railway,
Office of the Deputy Chief Engineer,
Construction, Calicut.

15. A. Divakar,
Technical Mate,
Southern Railway,
Office of the Deputy Chief Engineer,
Construction, Calicut.

: Applicants

(By Advocate Shri T.C. Govindaswamy)

Vs.

1. Union of India through,
the Secretary to the Government of India,
Ministry of Railways,
Rail Bhavan, New Delhi.

2. The Chief Engineer, Construction,
Southern Railway,
Madras, Egmore,
Madras.

3. The General Manager,
Southern Railway,
Madras.

4. The Senior Divisional Personnel Officer,
Southern Railway,
Trivandrum, Division,
Trivandrum.

: Respondents

(By Advocate Smt. Sumathi Dandapani)

O.A. 616/97:

1. Mathew Kurien,
Technical Mate,
Office of the Executive Engineer
(Construction),
Southern Railway, Ernakulam.

2. C.K. Surjith,
Technical Mate
Office of the Inspector of Works,
Southern Railway,
Ernakulam Junction.

3. S. Prasannakumar,
Technical Mate,
(Office of the Executive Engineer
(Double Line),
Southern Railway, Quilon).

4. G. Vijayakumar,
Technical Mate,
Office of the Inspector of Works,
Southern Railway, Construction,
Quilon.

5. P. Radhakrishnan,
Technical Mate,
Office of the Deputy Chief Engineer,
(Construction),
Southern Railway,
Trivandrum-14.

: Applicants

(By Advocate Shri T.C. Govindaswamy)

Vs.

1. Union of India represented by
the Secretary to the Government of India,
Ministry of Railways,
Rail Bhavan, New Delhi.
2. The Chief Engineer, Construction,
Southern Railway,
Madras Egmore,
Madras-8.
3. The General Manager,
Southern Railway,
Headquarters Office,
Park Town P.O.,
Madras-3.
4. The Senior Divisional Personnel Officer,
Southern Railway,
Trivandrum Division,
Trivandrum-14. : Respondents

(By Advocate Smt. Sumathi Dandapani)

O.A. 833/97:

G. Raju,
Technical Mate, (Temporary Status)
Office of the Section Engineer,
(Works), Southern Railway,
Quilon. : Applicant

(By Advocate Shri T.C. Govindaswamy)

Vs.

1. Union of India through
the Secretary to the Government of India,
Ministry of Railways,
Rail Bhavan, New Delhi.
2. The General Manager,
Southern Railway,
Headquarters Office,
Park Town P.O.,
Madras-3.
3. The Divisional Engineer (South)
Southern Railway,
Trivandrum Division,
Trivandrum -14.
4. The Divisional Railway Manager,
Southern Railway, Trivandrum Division,
Trivandrum-14.
5. The Divisional Personnel Officer,
Southern Railway,
Trivandrum Division, Trivandrum-14. : Respondents

(By Advocate Smt. Sumathi Dandapani)

(The applications having been heard on 28th August 2000,
the Tribunal on the same day delivered the following:)

O R D E R

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

The issue involved in all these cases are identical and the facts are similar. Therefore, these cases are being heard and disposed of by this common order.

2. The applicants in all these cases have been working as Technical Mates with temporary status on casual basis for a number of years. They were aggrieved that they have not been considered for regularisation in a Group 'C' post in the scale of Rs. 950-1500 even though they were artisans engaged as Technical Mates considerably for a long time. Therefore, aggrieved of their empanelment as Gangman the applicants filed these applications to set aside the impugned orders empanelling them as Gangman declaring that they are entitled to be absorbed as Technical Mates in the scale of Rs.950-1500. The applicants in all these cases have placed reliance on the Railway Board's order dated 8.7.93 (A-4 in O.A. 636/97) as also Railway Board's letter dated 9.4.97 (Annexure R-I in O.A. 636/97).

3. After filing the O.As, excepting the applicant No.6 in O.A. 636/97 the remaining applicants in that case have since been regularised as Inspectors of Works etc. in the Group 'C'. learned counsel for the applicants stated that the O.A. No. 636/97 is to be considered only in regard to the 6th applicant therein.

4. The respondents in their reply statement contend that merely because the applicants were being granted temporary status in Group 'C' scale, they are not entitled to regularisation on Group 'C' post excepting to the extent of 25% of the promotion quota. Respondents have further placed reliance on the ruling of the Apex Court reported in Union of India Vs. Motilal (1996 (2) SLR 90) wherein it has been held that the post of Mates under the Railways are to be filled by promotion, regularisation is not permissible. The respondents also contended that there is no post of Technical Mates in the cadre and therefore, the applicants could not be regularised in group 'C' as Technical Mate.

5. We have gone through the elaborate pleadings on record in these cases. The Hon'ble Supreme Court had an occasion to consider an identical issue in V.M. Chandra Vs. Union of India and others (AIR 1999 SC 1624.) Referring to the contention of the respondents that there is no post of Technical Mates available for absorption and taking note of the Railway Board's Circular dated 13.7.93 which reads as follows:

"The Board have communicated their approval for considering the Casual Labour Technical Mates in the Geographical jurisdiction of the division for absorption as Skilled Artizans Gr.III in the scale of Rs.950-1500 against 25% of direct recruitment quota along with serving casual labour artizans."

the Apex Court found that the contention is not tenable. Taking into account the fact that the appellant before the Supreme Court had been approaching this Tribunal a number of times as an extra ordinary case without remitting the matter further to the Railway Administration, the Apex Court directed the absorption of the appellants in that case in the scale of Rs. 950-1500.

6. In view of the ruling of the Apex Court and the Railway Boards' circular dated 8.7.93 (A-4 in O.A. 636/97), the contention of the respondents that there is no post of Technical Mate on which the applicants could be regularised has to be rejected. Therefore, the applicants have to be considered for regularisation in their turn as Skilled Artizans to the extent of 25% of the posts for direct recruitment. Further according to the Railway Boards' Circular dated 9.4.97 (Annexure R-I in O.A. 636/97), the respondents have to consider the case of the applicants for regularisation by giving them a chance to appear in the examination conducted by the Railway Recruitment Board or the Railways for the post as per their suitability and qualification.

7. Since all the applicants are continuing as Skilled Artizans on the basis of the interim order issued by this Tribunal, the applications are now disposed of directing the General Manager to consider the case of the applicants in appropriate grade on Group 'C' for absorption in accordance with the directions contained in the railway Boards, Circular

dated 8.7.93 as also the Railway Boards' order dated 9.4.97 and the ruling of the Supreme Court in V.M. Chandra's case. The above exercise shall be undertaken and the resultant orders issued as expeditiously as possible and till final orders are issued the status quo regarding the posting of the applicant shall be maintained. No costs.

Dated 28th August 2000.

Sd/-
(V.K.MAJOTRA)
ADMINISTRATIVE MEMBER

Sd/-
(A.V.HARIDASAN)
VICE CHAIRMAN

rv

List of Annexures referred to in the order:

Annexure A-4 in O.A. 636/97 : A true copy of the letter No. P.407/II/3/CN/PS of 13.7.93 issued by the 2nd respondent.

Annexure R-1 in O.A. 636/97 : True copy of Railway Board's letter No. E(NG)II/97/RC-3/4 dated 9.4.97.