

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

DATED MONDAY THE TWENTY FIFTH DAY OF SEPTEMBER
ONE THOUSAND NINE HUNDRED EIGHTY NINE

P R E S E N T

HON'BLE SHRI S.P MUKERJI, VICE CHAIRMAN

&

HON'BLE SHRI A.V HARIDASAN, JUDICIAL MEMBER

ORIGINAL APPLICATION NO. 64/89

1. K. Entheenkutty
2. C Krishnan
3. N.V Kunjumutty
4. K.K Raju
5. P.Saidhalaevi
6. P.Abdul Rahiman
7. M.Balakrishnan

.. Applicants

v.

1. The Divisional Personnel Officer, Southern Railway, Trivandrum.
2. The Executive Engineer (Construction), Southern Railway Trivandrum.
3. The Inspector of Works-I (Construction), Southern Railway, Trivandrum.
4. The Assistant Engineer (Open Line), Southern Railway, Quilon.

.. Respondents

M/s. Ashok M.Cheriyan &
C.A Joy

.. Counsel for the
applicants

Mrs. Sumathi Dandapani

.. Counsel for the
respondents.

O R D E R

Shri S.P Mukerji, Vice-Chairman

In this application dated 19.1.1989 filed under Section 19 of the Administrative Tribunals Act, the seven applicants who were working as Moplah Khalasis in the Skilled category in the scale of Rs.800-1500 as casual workers in the Trivandrum Division of the Southern Railway, have prayed that they should not be absorbed as regular Gangman, but in the Skilled grade in accordance with para 2512(ii) of the Indian Railway Establishment Manual. They are prepared to face retrenchment as casual workers in the Skilled category rather than appointed in the regular cadre of Gangman. During the pendency of this

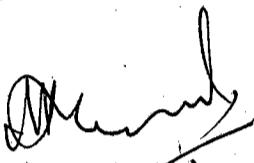
application applicants Nos. 1, 2, 4, 5 and 7 applied to respondent No. 2 to say that they do not want to pursue the case. But no application has been moved before the Tribunal to that effect. As regards applicant Nos. 3 and 6 the respondents have stated that they are working as Moplah Khalasis and have attained temporary status. The applicants' case is that being in the higher scale of Rs.800-1500, they cannot be empanelled for absorption even in regular cadre of Khalasi/Gangman in the lower scale of Rs.750-940/775-1025. In spite of their unwillingness to be absorbed as Gangman, the respondents are relieving them from the Skilled category for posting as regular Gangman. The respondents have stated that though there is a promotion quota for direct absorption in the Skilled grade, the vacancies are so few that under the decasualisation scheme the applicants are being absorbed as Gangman. They have stated that the applicants have at no point of time expressed their unwillingness to join as Gangman but if they are unwilling they will be allowed to continue in the present grade subject to the risk of retrenchment.

2. We have heard the arguments of the learned counsel for both the parties and gone through the documents carefully. Since the applicants are not willing to join as Gangman and are prepared to face retrenchment in their existing grade and the respondents are also willing to retain them in the casual category in the existing grade, we dispose of this application on the following lines:-

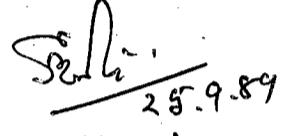
The application is allowed to the extent of directing the applicants to indicate within a period of one month from the date of communication of this order, their unwillingness to be absorbed as regular Gangman subject to the risk of being retrenched in their existing

..3..

category in accordance with law. If the applicants do not send any communication within a period of one month it will be presumed that they are unwilling to join as regular Gangman. The respondents are directed to retain them in their existing category if they are unwilling to be absorbed as Gangman or they do not send any communication as directed above within a period of one month. The applicants being retained in their existing category as Moplah Khalasis will be subject to the risk of their being retrenched in accordance with law.



(A.V. HARI DASAN)
JUDICIAL MEMBER



25.9.89
(S.P. MUKERJI)
VICE CHAIRMAN

n.1.1