

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.66/89

B.Albert

.. Applicant

v.

1. The Divisional Personnel Officer,  
Southern Railway, Triyandrum.
2. The Chief Engineer(Construction),  
Southern Railway, Madras.
3. The Executive Engineer,  
(Construction), Southern Railway,  
Trichur.
4. The Depot Store Keeper,  
(Construction), Southern Railway,  
Trichur.
5. The Assistant Engineer(Open Line)  
Southern Railway, Trichur.

.. Respondents

M/s. Ashok M.Chериан, Mathews Valsalan &  
C.A Joy

.. Counsel for the  
applicant.

Mrs.Sumathi Dandapani

.. Counsel for the  
respondents

O R D E R

Shri S.P Mukerji, Vice-Chairman

In this application dated 25.1.1989 filed under Section 19 of the Administrative Tribunals Act, the applicant who has been working as a Lorry Attendant as a casual worker has prayed that the impugned order at Appendix I dated 8/15 December, 1988 empaneling him for regular appointment as Gangman should be set aside and that he should be appointed as Lorry Attendant or Driver against a Construction Reserve post. He has also prayed that so long as he is not absorbed as Lorry Attendant or Driver, he should be kept in his present post as casual worker subject to his services lawfully terminated. The brief facts of the case are as follows.

2. The applicant was originally engaged as a Lorry Attendant on a daily rated basis on 24.3.71 and worked in that capacity till 23.8.71. Thereafter he was engaged on a daily rated basis as a Special Mate, then as Survey Khalasi, then as Lascar and thereafter as Khalasi till 18.1.77. He was retrenched on closure of work on 18.1.77 but re-engaged as Man Mazdoor between 17.9.80 and 20.9.80. From 21.9.80 he has been working as Lorry Attendant. He was granted temporary status with effect from 1.1.81. He is in the grade of Rs.196-232(Rs.750-940 revised). In 1973 the Railway Board created what is known as Construction Reserve of temporary Non-Gazetted post. The senior-most Lascars, Record Sorters, Lorry Attendants who had been appointed against the sanctioned post were absorbed against the Reserve. Since the applicant was not appointed against any sanctioned post, he could not be appointed against a regular post of Lorry Attendant. The respondents have indicated that there is no vacancy in the Construction Reserve post, against which the applicant could be considered for regular absorption as Lorry Attendant. To give him security of service, the respondents empanelled him after screening for absorption as Gangman in the scale of Rs.775-1025 while the applicant is working as casual basis as Lorry Attendant in the lower scale of Rs.750-940. The respondents are prepared to retain him as casual Lorry Attendant subject to the termination of his services on completion of the work.

3. We have heard the arguments of the learned counsel for both the parties and gone through the documents carefully. We see nothing wrong in the respondents empaneling the applicant for regular absorption as Gangman with a scale of pay higher than what the applicant is getting. If, however

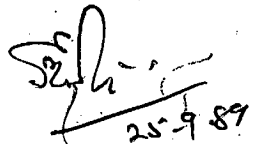
..3..

the applicant is unwilling to accept this offer and is prepared to work as a casual worker with the risk of being retrenched , he cannot be forced to accept the regular absorption as Gangman. However, if before his retrenchment any vacancy of Lorry Attendant arises, the applicant should also be considered along with other eligible candidates in accordance with law.

4. In the facts and circumstances we allow the application to the extent of directing the respondents that since the applicant is unwilling to be absorbed as a Gangman and is prepared to face retrenchment as Lorry Attendant, he should be retained as Lorry Attendant subject to retrenchment in accordance with law. If , however before he is retrenched there are regular vacancies of Lorry Attendants, he should also be considered along with other eligible candidates for regular absorption as Lorry Attendant in accordance with law. There will be no order as to costs.



(A.V HARIDASAN)  
JUDICIAL MEMBER

  
25.9.89

(S.P MUKERJI)  
VICE CHAIRMAN

n.i.j