

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH  
ERNAKULAM

Dated Wednesday the Twenty eighth day of June, one thousand nine hundred eighty nine.

PRESENT

Hon'ble Shri S.P.Mukerji, Vice Chairman  
&  
Hon'ble Shri G.Sreedharan Nair, Judicial Member

ORIGINAL APPLICATION No. 69/89

1. P. Mohan.
2. P.Subramanian
3. T.V. Balan
4. T. Dasan.
5. T. Yesudas.
6. C. Ravindran. .. Applicants

Vs.

1. Union of India represented  
by the General Manager,  
Southern Railway,  
Madras.
2. Divisional Personnel Officer,  
Southern Railway,  
Trivandrum.
3. Assistant Engineer,  
Southern Railway,  
Quilon.
4. Bridge Inspector,  
Southern Railway,  
Quilon. .. Respondents.

Counsel for the applicants .. M/s K.Ramakumar, VR  
Ramachandran Nair & Roy Abraham

Counsel for the respondents.. Mr. Sumati Dandapani

ORDER

Shri S.P.Mukerji, Vice Chairman

In this application dated 26.1.1988 Shri P.Mohan and five others who have been working as Casual Skilled and Semiskilled Workmen under the Southern Railway have prayed that the impugned order in so far as it appoints them as temporary Gangmen should be set aside as illegal and the respondents directed to retain them in the respective grades in which they are working.

2. The brief facts of the Case are as follows.

The applicants 1&2 were working in the skilled category in the scale of Rs.950-1500 and the applicants 3 to 6 were engaged in semi-skilled category in the scale of Rs. 800-1150 as Casual worker in the Civil Engineering Department of the Southern Railway. All of them had by virtue of their length of service as Casual workers admittedly attained temporary status, though not <sup>being</sup> regular temporary employees. For the purpose of decasualisation i.e., absorption in regular cadre, casual labourers have two avenues. They are considered for empanelment from the lowest grade of Kh<sub>a</sub>lasi/Gangmen in the scales of Rs. 750-950 and Rs.775-1025 respectively. These scales are lower than the scales available in the skilled and semiskilled categories. The other avenue is direct absorption in the skilled category. For this 25% of the 50% promotion quota is reserved for Casual workers. While skilled and semiskilled categories are in Group 'C' grade, their absorption <sup>(through the first avenue)</sup> in regular cadre in the instant case was done in Group 'D' grade of Gangman. This was done to ameliorate the hardship of casual labourers <sup>as in</sup> on the second avenue <sup>the prospects</sup> of direct absorption in skilled grade <sup>are</sup> was very meagre. By this process the applicants were screened and empanelled against the regular Group 'D' vacancies as on 31.12.1988. As regular employees they become eligible for more rights and privileges than what they were enjoying as casual labourers with temporary status. The applicants, however, in

the application protested against their absorption as Gangmen arguing that by this process they have been reverted to lower grade and accordingly the order of their appointment as Gangmen was violative of principle of natural justice <sup>was</sup> against the Supreme Court decisions and violative of the provisions of Industrial Disputes Act.

3. The respondents have indicated that they have <sup>(the applicants)</sup> been absorbed in the regular cadre and even though in a lower scale, as temporary Gangmen in the regular cadre they will enjoy better rights and privileges than what they are enjoying as Casual workers with temporary status.

4. We have heard the arguments of the learned counsel for both the parties and have gone through the documents carefully. A similar case was decided by us in T.A.No.98/87. In that case we referred to the Southern Railway Circular No.J/P.407/IX/Eng/25%/DR dated 30.1.1986, the relevant portion of which was quoted as follows:

"In terms of the standing orders of Casual Labourers of Engineering Branch regardless of whether they are unskilled, semi-skilled or skilled, are required to be empanelled as Gangmen in scale Rs. 200-250 and posted to gangs.

There is also a provision in the rules that casual labourers/substituted working in skilled grade (and drawing wages as applicable to the skilled grade viz. Rs. 260-400 or above) can be considered for direct entry into posts of skilled artisans of the relevant trade to the extent of 25% of the vacancies arising in that grade/trade.

The procedure of earmarking 25% of posts in the skilled grade has not been followed on this division in recent years. It has, therefore, been

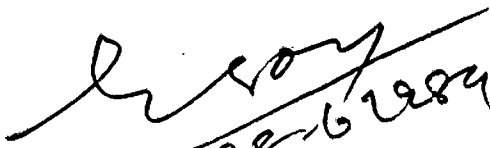
decided to review the matter and to the extent of 25% of vacancies that arose after 1.4.1983, it is proposed to consider staff who have worked in the skilled grade in units coming within the empanelling units of various sub-divisions on this division. This will be applicable to:-

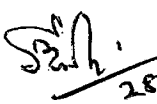
- i) Casual Labourers/Substitutes of skilled grade who have already been empanelled and posted as gangman and carried out such postings;
- ii) Casual labourer/Substitute of the skilled grade who have been empanelled and posted as Gangman but not yet carried out the posting;
- iii) Casual labourers of the skilled grades of Constn. project coming within the jurisdiction of various sub-divisions who have not been in service as on 1.4.1983 but have left service subsequent to that....."

In our judgment dated 27th March, 1987 we directed the respondents to consider the petitioner for direct entry in the Skilled scale of Rs. 260-400 (revised Rs.950-1500) in accordance with the aforesaid circular and we declared that the petitioner would be at liberty to continue in the skilled grade or join as Gangman in the lower scale of Rs. 200-250 (revised Rs. 775-1025) but without prejudice to his being considered for regular absorption in the scale of Rs. 260-400 (Rs.950-1500 revised) in accordance with the aforesaid circular. The petitioner was allowed <sup>if he so chose</sup> to stay in the Skilled grade ~~in accordance~~ with his temporary status and other rights, liabilities and benefits accruing to him. The instant case is also on all fours with the aforesaid case decided by us. As a matter of fact the respondents themselves in their (the applicants) counter affidavit have agreed to allow them the existing

facilities if they declare that they are not willing to be absorbed in the post of Gangmen in the skilled grade and that they will continue to be skilled casual labourer till they get a chance to be empanelled in the skilled category against the 25% promotion quota. This will be, however, subject to their services being terminated as casual worker as and when the work ceases.

5. In the circumstances discussed above, since the applicants are not willing to be posted as Gangmen against the regular vacancies, <sup>or</sup> ~~to~~ allow the application to the extent of directing the respondents that the applicants should be considered for direct entry in the skilled category against the promotion quota and so long as they are not absorbed, the applicants will be at liberty to continue in the existing scales in the skilled/semi-skilled category or join as regular Gangmen without prejudice to their being considered for regular absorption in the skilled/semi-skilled category. This will be, however, subject to the risk of their services in the skilled/semi-skilled category terminated in accordance with law if the work ceases before their absorption. There will be no order as to costs.

  
(G. Sreedharan Nair)  
Judicial Member

  
(S.P. Mukerji)  
Vice Chairman

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