

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. NoS. 1962/91 &
XXXXXX 72/92 x99x

DATE OF DECISION 24-8-92

Gerard Malowney & 8 others Applicant(s) in OA 1962/91
A. Murugesan & 5 others Applicants in OA 72/92

Mr. P. Sivan Pillai Advocate for the Applicant (s)

Versus

Union of India through the Respondent(s)
General Manager, Southern Railway,
Madras and 2 others.

Mr. M. C. Cherian Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. P. S. Habeeb Mohamed, Administrative Member

The Hon'ble Mr. N. Dharmadan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. To be circulated to all Benches of the Tribunal?

JUDGEMENT

MR. N. DHARMADAN, JUDICIAL MEMBER

These applications are also heard together on consent of parties and disposed of by this common judgment. The applicants in these cases are Loco Khalasis attached to the Steam Loco Sheds of Southern Railway. They became surplus staff on account of dieselisation of steam traction in the year 1979 to 1982. Hence they have filed this application under Section 19 of the Administrative Tribunals Act, 1985 for a direction to the respondents to consider the applicants for promotion to the post of Diesel Assistants in preference to their juniors in the Steam Loco Wing with all attendant benefits.

2. The respondents represented by the Senior Divisional Personnel Officer, Southern Railway, filed a detailed reply in these cases. It is stated in the reply that on verification of the records it is seen that the applicants at serial 1, 3, 4 & 5 in OA 72/92 were regular steam surplus staff who have been working as Loco Khalasis. On successful completion of the Diesel Conversion Course they can be absorbed as Diesel Assistants on the basis of their seniority position amongst the steam surplus staff. But applicants 2 and 6 in OA72/92 were only casual labourers at the time of dieselisation of trains in Palghat Division. They have been taken as casual labour/substitutes and empanelled in the list only on 19.8.85 as can be seen from Exhibit-R1. Hence they are short of regular service and they will not come within the purview of Annexure-A2 order. Only regular steam surplus staff continuing as such are eligible to be sent for diesel conversion course. Accordingly, applicants 2 & 6 in OA 72/92 cannot make any claim for absorption as Diesel Assistants. In the reply filed in O.A. 1962/91 the respondents have stated that except applicant No.6 all the others have been sent for diesel conversion course on the basis of the interim order passed by this Tribunal. But since the 6th applicant could not attend the diesel conversion course since he reported for training only at a late stage. It is further stated that except applicant No.8 all were regular steam surplus staff who have been working as Loco Khalasis in the Railway. But the 8th applicant has been engaged as substitute Sweeper-cum-Porter in the Traffic Department from 3.10.81 and it is clear from Exhibit-R1 that he never worked in the Loco Wing of the Mechanical Department. Hence, he is a person who cannot be considered as a Steam surplus staff in any sense.

3. At the time when the cases were taken up for final hearing the learned counsel for the applicants submitted that the cases of xxxxx the surplus staff and their absorption as Diesel Assistants is covered by the decision in RA 21/92 in OA 1735/91 and OA 235/92 and connected cases. But in regard to the applicants who are not covered by the said judgment may be allowed to submit representations before the Railway for considering their case in a sympathetic manner so as to enable them to get regularisation in the Diesel Wing along with similarly situated persons.

4. The learned counsel for the respondents has no objection in disposing of the applications accepting the requests made by the learned counsel for the applicants. Accordingly, we direct the respondents to implement the scheme prepared for absorption of Diesel Assistants in Palghat and Trivandrum Divisions as referred in RA 21/92 in O.A. 1735/91 and connected cases but in regard to the applicants who are not covered by the said scheme they will submit their representation before the 2nd respondent within three weeks from the date of receipt of a copy of the judgment claiming their rights for absorption in the Diesel Wing. If such representations are received by the 2nd respondent in both the cases, they shall be disposed of in accordance with law as expeditiously as possible without any delay.

5. The applications are disposed of in the manner indicated above. There will be no order as to costs.

N.Dharmadan
24.8.92

(N.DHARMADAN)
JUDICIAL MEMBER

H.S.Mohamed
24.8.92

(P.S.HABEEB MOHAMED)
ADMINISTRATIVE MEMBER