

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. No.
T.A. No.

79

1991

DATE OF DECISION 5.2.92

K. Aravindan _____ Applicant (s)

Mr. Asok M. Cherian _____ Advocate for the Applicant (s)

Versus

The Sr. Divisional Personnel Officer, Southern Railway, Palghat and others _____ Respondent (s)

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

CORAM :

The Hon'ble Mr. N. V. KRISHNAN, ADMINISTRATIVE MEMBER

The Hon'ble Mr. N. DHARMADAN, JUDICIAL MEMBER

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

JUDGEMENT

MR. N. DHARMADAN, JUDICIAL MEMBER

The applicant was recruited directly as a bricklayer casual labourer in the year 1969. His grievance is that he has not been given the direct promotion to the regular post of Bricklayer (skilled) coming within the Clause (ii) of Paragraph 2512 of the Indian Railway Establishment Manual. The relevant portion of Para 2512 is extracted below:

" (ii) Casual labour engaged in workcharged establishments of certain Departments who got promoted to semi-skilled, skilled and highly skilled categories due to non-availability of departmental candidates and continue to work as casual employees for a long period, shall straightaway be absorbed in regular vacancies in

skilled grades provided they have passed the requisite test to the extent of 25% of the vacancies reserved for departmental promotion from the unskilled and semi-skilled categories. These orders also apply to the casual labour who are recruited directly in the skilled categories in workcharged establishments after qualifying in the trade test."

2. According to the applicant, he passed the trade test in 1979 and qualified for appointment as regular Bricklayer w.e.f. 31.1.79. When vacancy arose in the regular post of Bricklayer on 30.6.80, 14 persons were appointed as per Annexure-I. The applicant approached this Tribunal with the complaint that his name was not considered for promotion. This Tribunal in TAK-451/87, Annexure-A-4 judgment disposed of the application directing the applicant to file representation before the appropriate authority which shall be disposed of in accordance with law.

3. Accordingly, the applicant filed Annexure A-3 representation pointing out the dates from which the 14 persons have been appointed as regular Bricklayers and prayed that he may also be appointed to the regular Bricklayer atleast w.e.f. 15.7.1982 and to treat him senior to those who were appointed in the skilled category i.e. Mr. M. Rajan who is at Sl. No. 5 in the list. This representation appears to have been considered and disposed of by Annexure A-4 order which is challenged by the applicant in this case. The reason for rejection of the claim of the applicant is extracted below:

"You are the first Bricklayer Sk. Gr.III, posted against 25% quota earmarked for causl labour Bricklayer in this division since its implementation. The 14 Bricklayers mentioned in your representation were screened and posted as Gangman, from where they volunteered for Bricklayer Khalasis, absorbed as such by a duly constituted committee and became

Bricklayers in the normal channel. Similarly, you were also screened, posted as Gangman in 1978 just as others, but you declined to go as gangman and opted to continue as Casual labour Bricklayer for reasons best known to you. Thus, your continuance as Casual labour Bricklayer from 1978 onwards was not due to want of regular Bricklayers, as envisaged in Para 2512 of IREM, as referred to by you and therefore, you have no claim for retrospective posting on that ground also."

4. According to the applicant, at the time when the vacancy arose on 30.6.1980 it was not notified to persons like the applicant so as to enable them to make their requests and the filling up of 14 vacancies is contrary to clause (ii) of Paragraph 2512 of the IREM.

5. The respondents in the reply statement submitted that persons appointed as per Annexure-I were promoted as skilled Bricklayers only in the manner indicated therein. They have further submitted that they are taking decision to fill up the vacancies which have arisen after 1.4.1983 and all the appointments, according to them, were ^{made} strictly in terms of Paragraph 2512.

6. We have heard the arguments and considered the ~~document~~ ^{order} Annexure-I, order of appointment of 14 persons, indicating that the appointments/made to the vacancies which arose on 30.6.80 and this was also done without giving opportunity to the applicant to claim for appointment to the regular Bricklayers. It has been indicated in Annexure-A-2 judgment also that the petitioner was the first person in the Palghat Division who was regularly absorbed in the skilled post against 25% quota.
 ~~But the applicant submitted his application in the year 1980. But the claim of the applicant is that he is entitled to regularisation from 1980 because there was~~
 ~~vacancy in the promotion quota coming within the limit of~~

25% and clause (ii) of Paragraph 2512 of the Railway

Establishment Manual. *provides regular absorption.* 2

7. Having considered the matter in detail, we are of the view that the appointment of 14 persons in the regular post of skilled Bricklayer without considering the applicant cannot be sustained. However, we are not interfering with the appointment of 14 persons since they are not parties in these proceedings.

8. Having heard the matter, the only relief that can be granted to the applicant is to make a declaration that the applicant is entitled to be absorbed in the regular vacancy of skilled Bricklayer, junior to the last man, namely the 14th/ person, Mr. A. Mohanasamy who has been regularised w.e.f. 1.1.1984 as mentioned in Annexure A-3 representation submitted by the applicant, *with consequential benefits.* 4 We order accordingly.

9. The application is allowed as above. There will be no order as to costs.


5.2.92.

(N. DHARMADAN)
JUDICIAL MEMBER


6/2/92

(N. V. KRISHNAN)
ADMINISTRATIVE MEMBER

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