

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH  
ERNAKULAM

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

PRESENT

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

ORIGINAL APPLICATION No.8/89

1. E. Appukutty
2. O. Balan.
3. C. Purushothaman.
4. O. Preman
5. K.P. Khader.
6. M.P. Appukuttan.
7. Cheriyaabava.
8. C. Balan.
9. K. Yunus. .. Applicants

Vs.

1. Union of India represented by  
the General Manager,  
Southern Railway, Madras.
2. Divisional Personnel Officer,  
Southern Railway, Palghat.
3. Senior Divisional Engineer, West,  
Southern Railway, Palghat.
4. Assistant Engineer,  
Southern Railway, Cannanore.
5. Bridge Inspector,  
Special Work, Southern Railway,  
Valapattonam, Cannanore. .. Respondents.

Counsel for the applicants	.. M/s K.Ramakumar, VR Ramachandran Nair & Roy Abraham.
Counsel for the respondents	.. M/s MC Cherian, Saramma Cherian & TA Rajan.

O R D E R

Shri S.P. Mukerji, Vice Chairman

In this application under Section 19 of the  
Administrative Tribunals Act dated 5.1.1988 Shri E.Appukutty  
and eight others who have been working as Khalasis/Blacksmiths  
in the Semi-skilled category under the Southern Railway  
in the scales of Rs.800-1150 and Rs.950-1500 have challenged

the impugned order dated 30.12.1988 proposing them to be engaged as temporary Gangmen in the scale of Rs. 775-1025. They have prayed that they may be allowed to continue in the respective grade to which they are working.

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

The applicants have been working in different categories as Casual Labourers and given temporary status. The Railways as a matter of giving them security of employment have scheme for their absorption in regular cadre either in the Class IV Grade of Gangmen (Rs. 775-1025) <sup>or</sup> ~~Class III~~ even through a meagre quota of direct entry in the <sup>Class III</sup> Skilled category. This quota is 25% of the promotion quota 50% ie., 12½%. In pursuance of the scheme of decasualisation the applicants have been empanelled for absorption in the regular cadre of Gangmen.

3. Though the applicants have protested against their appointment ~~to~~ on the lower scale of Gangmen as being contrary to the provisions of Industrial Disputes Act or natural justice, the respondents have clearly indicated that there is no compulsion for them to accept the offer of absorption as regular Gangmen. They have <sup>the</sup> option to ~~absorption~~ in regular cadre as Gangmen ~~and~~ <sup>but</sup> the applicants have not declared that they are unwilling to be absorbed as Gangmen. The applicants have referred to the decisions of this Tribunal given in

T.A.No.98/87 to claim that they should be absorbed in the Skilled category.

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 Gangman in scale Rs. 200-250 and posted to gangs.

There is also a provision in the rules that casual labourers/substitutes 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:-

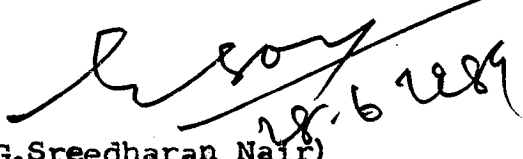
- i) Casual Labourers/Substitutes of skilled grade who have already been empanelled and posted as gangman and carried out such postings;
- ii) Casual labourer/Substitute of the skilled grade who have been empanelled and posted as Gangman but not yet carried out the posting;
- iii) Casual labourers of 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....."


B3

.....4

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) without prejudice to his being considered for regular absorption in the scale of Rs.260-400 in accordance with the aforesaid circular. The petitioner was allowed 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 counter affidavit have agreed to allow them to continue as Casual worker in skilled category if they are not willing to be absorbed in the post of Gangmen provided they give a declaration of their unwillingness in the skilled grade and agree to be continued to be skilled casual labourer till they get a chance to be empanelled in the skilled category against the 25% promotion quota so that other casual workers who are willing could be absorbed as Gangmen. This will be, however, subject to the petitioners services being terminated as Casual worker as and when the work ceases.

5. In the circumstances discussed above, we direct that since the applicants are not willing to be posted as Gangmen against the regular vacancies, the applicants should be retained as casual workers with temporary status in the existing categories and 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

28.06.89.

Sn.