

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.82/09

Wednesday this the 9th day of December 2009

C O R A M :

HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER

A.Selvaraj,
S/o.Ayyakkutty Nadar,
(Ex-Casual Labourer,
Southern Railway, Trivandrum Division)
Residing at Panavila Veedu, Kannathodu,
Marthandom P.O., Kanyakumari Dt.Applicant

(By Advocate Mr.T.C.Govindaswamy)

V e r s u s

1. Union of India represented by the General Manager,
Southern Railway, Headquarters Office,
Park Town P.O., Chennai – 3.
2. The Divisional Railway Manager,
Southern Railway, Trivandrum Division,
Trivandrum – 14.
3. The Divisional Personnel Officer,
Southern Railway, Trivandrum Division,
Trivandrum – 14.Respondents

(By Advocate Mr.P.Haridas)

This application having been heard on 9th December 2009 the
Tribunal on the same day delivered the following :-

O R D E R

HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER

In this OA, the applicant, who is a retrenched Casual Labourer of
Southern Railway, Trivandrum Division, is seeking a declaration that he is
entitled to be considered for regular absorption as a Group 'D' employee in
the Trivandrum Division of Southern Railway without any age restriction in



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preference to persons with lesser days of service than him and a direction to the respondents to do accordingly. He also seeks a direction to the respondents to grant him the benefit of such absorption on par with his juniors with all consequential benefits including arrears of pay and allowances arising therefrom.

2. The respondents in their reply statement have admitted that the applicant is a retrenched casual labourer under the territorial jurisdiction of Trivandrum Division and his name is registered in the merged seniority list of retrenched casual labourers at Sl.No.2160 and he had 587 days of casual service at his credit.

3. The question regarding the eligibility of retrenched casual labourers for absorption as a Group 'D' employee has been considered by this Tribunal in O.A.271/06 and connected cases. This Tribunal has held that any restriction regarding the age limit for absorption of retrenched casual labourers as a Group 'D' employee is against the judgment of the Apex Court reported in Inder Pal Yadav Vs. Union of India [1985 (2) SCC 548]. The operative part of the said order of this Tribunal was as under :-

"35. In the result, I quash Ministry of Railways Letter No E (NG)-II/99/CL/19 dated 28.2.2001 and the letter of even No dated 20.9.2001 to the extent it relates to the retrenched casual labour placed in the merged seniority list tracing its origin from the directions in Inder Pal Yadav's case and as prepared consequent to this Tribunal's order in OA 1706/94 and direct that the applicants in these OAs be considered for regular absorption in the existing vacancies having regard to the seniority in the above mentioned merged list and without applying any age limit subject to medical fitness and other conditions for such absorption being fulfilled. The



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appointments made so far shall not be disturbed. The respondents shall also endeavour to exhaust this list as early as possible while filling up future vacancies so that this category are not again driven to knock at the doors of the court for justice. Appropriate orders shall be passed and communicated to the applicants within a period of four months. OAs are allowed. No costs."

4. The Respondents Railways have carried out the aforesaid order of this Tribunal before the Hon'ble High Court of Kerala in W.P.C.3246/06 and connected cases. The Hon'ble High Court modified the order of this Tribunal and held that the age limit will not be applicable to casual labourers who have already rendered a minimum of 360 days of casual service.

5. I have heard counsel for the parties. Since the respondents have clearly admitted in their reply statement that the applicant has got 587 days of casual service at his credit, I do not find any reason why he should not have been absorbed by the respondents by now. It is not necessary that each and every casual labourer should approach this Tribunal for redressal of their grievances.

6. In view of the above position, I allow this O.A and direct the respondents to absorb the applicant as a Group 'D' employee in the Trivandrum Division of Southern Railway without any further delay subject to his fulfillment of other conditions such as medical fitness etc. The applicant is also entitled for seniority at par with his juniors in the retrenched casual labourers register and notional fixation of pay. However,

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he shall be paid the actual arrears of pay and allowances from 6.2.2009 ie. the date on which he has filed this O.A before this Tribunal. This order shall be complied with, within a period of two months from the date of receipt of a copy of this order. There shall be no order as to costs.

(Dated this the 9th day of December 2009)



GEORGE PARACKEN
JUDICIAL MEMBER

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