

O.A.1272/97, O.A.1619/97, O.A.87/98 & O.A.145/98

Friday, this the 28th day of August, 1998.

CORAM:

HON'BLE MR AV HARIDASAN, VICE CHAIRMAN

HON'BLE MR PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

O.A.1272/97

1. MP Pradeep,  
Technical Mate(Temporary Status),  
Southern Railway,  
Office of the Senior Section Engineer(Works),  
Calicut.
2. K Janardhanan,  
Technical Mate(Temporary Status),  
Southern Railway,  
Office of the Senior Section Engineer(Works),  
Bangalore.
3. P Preman,  
Technical Mate(Temporary Status),  
Southern Railway,  
Office of the Senior Section Engineer(Works),  
Cannanore.
4. N.C.Manoharan,  
Technical Mate(Temporary Status),  
Southern Railway,  
Office of the Section Engineer(Works),  
Cannanore.

- Applicants

By Advocate Mr TC Govindaswamy

Vs

1. Union of India represented by  
the Secretary to the  
Government of India,  
Ministry of Railways,  
Rail Bhavan,  
New Delhi.
2. The General Manager,  
Southern Railway,  
Park Town.P.O.  
Madras-3.
3. The Chief Personnel Officer,  
Southern Railway,  
Park Town.P.O.  
Madras-3.

- Respondents

4. The Deputy Chief Personnel Officer,  
(Engineering), Southern Railway,  
Park Town.P.O.  
Madras-3.
5. The Divisional Personnel Officer,  
Southern Railway,  
Palghat Division,  
Palghat.

- Respondents

By Advocate Mrs Sumathi Dandapani

O.A.1619/97

1. P Rajendran Nair,  
Technical Mate,  
Southern Railway,  
Office of the Inspector of Works,  
Ernakulam.
2. Susha Mathew,  
Technical Mate,  
Southern Railway,  
Office of the Assistant Engineer,  
Construction,  
Ernakulam.
3. G Madhusoodanan Nair,  
Technical Mate,  
Southern Railway,  
Near New Railway Bridge Side,  
Kappil.P.O.  
Edawa, Trivandrum.
4. R Jeba Amstrong,  
Technical Mate,  
Southern Railway,  
Office of the Executive Engineer,  
Construction,  
Trivandrum.
5. VA Mohammed,  
Technical Mate,  
Southern Railway,  
Office of the Inspector of Works,  
Construction,  
Alleppey.
6. Punnoose Kurian,  
Technical Mate,  
Southern Railway,  
Office of the Assistant Engineer,  
Construction,  
Ernakulam.
7. S Sasidharan,  
Technical Mate,  
Southern Railway,  
Office of the Inspector of Works,  
Construction,  
Punnappra, Alleppey.

- Applicants

8. N.P.Varghese,  
Technical mate,  
Southern Railway,  
Office of the Chief Engineer of Works,  
Construction,  
Trichur.
9. Juby Joseph,  
Technical Mate,  
Southern Railway,  
Office of the Assistant Engineer,  
Construction,  
Trichur.
10. JR Anil,  
Technical Mate,  
Southern Railway,  
Office of the Executive Engineer,  
Construction,  
Quilon.
11. PS Kuruvila,  
Technical Mate,  
Southern Railway,  
Office of the Deputy Chief Engineer,  
Construction,  
Calicut.
12. A Divakaran,  
Technical Mate,  
Southern Railway,  
Office of the Deputy Chief Engineer,  
Construction,  
Calicut.

- Applicants

By Advocate Mr TC Govindaswamy

Vs

1. The Union of India represented by  
the Secretary to Government of India,  
Ministry of Railways,  
Rail Bhavan, New Delhi.
2. The General Manager,  
Southern Railway,  
Headquarters Office,  
Park Town.P.O.  
Madras-3.
3. The Chief Personnel Officer,  
Southern Railway,  
Headquarters Office,  
Park Town.P.O.  
Madras-3.
4. The Chief Engineer,  
Construction,  
Southern Railway,  
Egnore, Madras-8.

- Respondents

By Advocate Mrs Sumathi Dandapani

O.A.87/98

1. C Arivuselvam,  
Technical Mate,  
Office of the Executive Engineer,  
(Construction), Southern Railway,  
Erode.
2. L Sundaralingam,  
Technical Mate,  
Office of the Executive Engineer,  
Construction, Southern Railway,  
Erode.
3. G Velnarayanan,  
Works Assistant,  
Office of the Deputy Chief Engineer,  
Construction, Southern Railway,  
Podanur.
4. MS Swaminathan,  
Technical Mate,  
Office of the Deputy Chief Engineer,  
Southern Railway, Construction,  
Podanur.

- Applicants

By Advocate Mr TC Govindaswamy

vs

1. Union of India  
represented by Secretary to  
Government of India,  
Ministry of Railways,  
Rail Bhavan, New Delhi.
2. The General Manager,  
Southern Railway,  
Park Town.P.O.  
Madras-3.
3. The Chief Personnel officer,  
Southern Railway,  
Park Town.P.O.  
Madras-3.
4. The Chief Engineer,  
Construction,  
Southern Railway, Egmore,  
Madras-8.

- Respondents

By Advocate Mrs Sumathi Dandapani

O.A.145/98

1. V Suresh,  
Technical Mate, Southern Railway,  
Office of the Divisional Electrical Engineer,  
Construction, Ernakulam.
2. S Murugakumar,  
Technical Mate, Southern Railway,  
Office of the Divisional Electrical Engineer,  
Construction, Ernakulam.

- Respondents

3. S Radhakrishnan,  
Technical Mate, Southern Railway,  
Office of the Divisional  
Electrical Engineer,  
Construction, Ernakulam.
4. TK Prakash,  
Technical Mate,  
Southern Railway,  
Office of the Divisional  
Electrical Engineer,  
Construction, Ernakulam.

- Applicants

By Advocate Mr TC Govindaswamy

Vs

1. Union of India represented by  
the Secretary to the  
Government of India,  
Ministry of Railways,  
Rail Bhavan, New Delhi.
2. The General Manager,  
Southern Railway,  
Headquarters office,  
Park Town.P.O.  
Madras-3.
3. The Chief Personnel Officer,  
Southern Railway,  
Headquarters Office,  
Park Town.P.O.  
Madras-3.
4. The Chief Engineer,  
Construction, Southern Railway,  
Egmore, Madras-8.
5. The Senior Divisional Personnel Officer,  
Southern Railway, Trivandrum Division,  
Trivandrum-14.

- Respondents

By Advocate Mrs Sumathi Dandapani

The applications having been heard on 26.8.98, the  
Tribunal on 28.8.98 delivered the following:

O R D E R

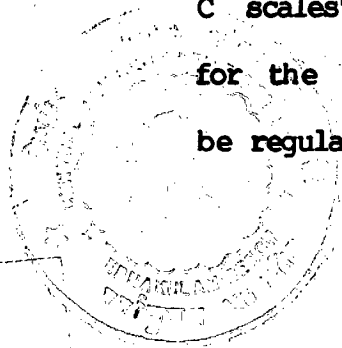
HON'BLE MR PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

The issue to be considered in all these four cases is the  
same and therefore they are being disposed of by a common order.

For purposes of discussion, we will consider the facts in

O.A.1619/97.

2. The applicants in O.A.1619/97 are Diploma holders in Civil Engineering initially engaged as casual Technical Mates and conferred with temporary status on different dates as shown by A-1. They were considered for regularisation and by order dated 10.4.97 and connected orders the applicants were empanelled as Gangman in the lowest scale of pay of Rs.750-1025. Applicants approached the Tribunal in O.A.636/97 and O.A.752/97 challenging their empanelment and regularisation in the lower scale of pay. The Tribunal passed interim orders of stay of the orders empanelling them as Gangman in the lower scale of pay. In the meanwhile applications were invited for filling the post of Junior Engineer/Works Grade.II(A-6). Similar notifications inviting applications were called for by A-8, A-9 and A-10 also. Applicants applied in response, but they were informed that they would not be considered for the selection since they were not regular employees. Applicants contend that they were already regularised though that regularisation was under challenge and an interim order of stay had been granted by the Tribunal. They further submit that the Railway Board instructions which are also referred to in the notifications referred only to Casual Labourer/Substitutes in Group C scales whether they are Diploma holders or have other qualifications. A-3 orders of the Railway Board state that such persons may be given a chance to appear in the examinations conducted by the RRB or the Railways for the posts as per their suitability and qualification without any age bar. Though the notifications A-6, A-8 to A-10 refer to the Railway Board orders the order has been wrongly quoted and the words "who had earlier worked" is introduced before "in Group C scales". Applicants contend that they are entitled to appear for the examination for Group 'C' post even though they may not be regularised.



3. Respondents submit that the scheme of General Competitive Examination has been introduced only in the year 1993 and the letter of the Railway Board dated 11.6.97 only further widened the scope of the scheme to some other Group C categories. They further submit that the Departmental Competitive Examination as shown by the name applies only to regular employees. Since the applicants who were empanelled had obtained orders of the Tribunal staying their empanelment, they are only casual labourers not yet regularised and so not eligible to appear in the examination.

4. An identical issue was considered by the Madras Bench of the Tribunal in O.A.1218/97 and O.A.1219/97. The Madras Bench of the Tribunal allowed those applications and directed that the applicants therein shall be considered for the posts notified in the impugned notifications subject to their fulfilling other qualifications. The Madras bench has in its order observed:

"The argument of the respondents that on the date of the notification the applicants have not been regularised is too technical for acceptance. It is this Tribunal which had stayed the absorption in Gr.D. while considering their eligibility for absorption in Gr.C posts. It cannot be denied that the applicants have to ultimately get absorbed either in Gr.C or Gr.D. The rejection of the case for absorption in Gr.C if at all, cannot result in Gr.D absorption being denied from the original date."

5. We follow the decision of the Madras Bench and allow the applications and declare that the applicants are eligible to be considered for appointment to the posts referred to in Annexures-A6, A-8 to A-10, subject to their fulfilling the requirements other than the condition that they be regular employees. No costs.

Dated, the 28th August, 1998.

*Sd/-*  
(PV VENKATAKRISHNAN)  
ADMINISTRATIVE MEMBER

*Sd/-*  
(AV HARIDASAN)  
VICE CHAIRMAN

CERTIFIED TRUE COPY

Date *28.8.98*

*M. V. V.*  
Deputy Registrar

trn/27898

LIST OF ANNEXURES

1. Annexure A-1 : True copy of the particulars including date of initial appointment, date of conferment of temporary status, etc. of applicants.
2. Annexure A-3 : True copy of order No.E(NG)II/97/RC/3/4 dated 9-4-97 issued by the Railway Board.
3. Annexure A-6 : True copy of letter No.P(S)608/I/5/GDCE/97 dated 20-8-97 issued by the 3rd respondent.
4. Annexure A-8 : True copy of letter No. P (S) 608/I/S/GDCE/97 dated 1-9-97 issued by the 3rd respondent.
5. Annexure A-9 : True copy of letter No.P(S) 608/I/S/GDCE/97 dated 1-9-97 issued by the 3rd respondent.
6. Annexure A-10 : True copy of letter No.P (S) 608/I/4/GDCE/SDM/Vol.I dated 19-9-97 issued by the 3rd respondent.

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