

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.NO. 88/2002

WEDNESDAY, THIS THE 29th DAY OF SEPTEMBER, 2004.

C O R A M

HON'BLE MR. A. V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. H.P. DAS, ADMINISTRATIVE MEMBER

1. G. Soman
Khalasi Helper (Carriage & Wagon)
Southern Railway
Coach Depot Office
Trivandrum Central
Thiruvananthapuram-14
 2. N. Rajendran-II
Khalasi Helper (Cariagae & Wagon)
Southern Railway, Coach
Depot Office, Trivandrum Central
Thiruvananthapuaram.
 3. T. Gopalakrishnan
Khalasi Helper (Carriage & Wagon)
Southern Railway,
Coach Depot Office
Trivandrum Central
Thiruvananthapuram-14

By Advocate Mr. P.K. Madhusoodhanan

vs.

1. Senior Divisional Personnel Officer
Southern Railway
Thiruvananthapuram-14
 2. The General Manager
Southern Railway, Park Town
Chennai-3
 3. Union of India represented by
its secretary
Ministry of Railways,
Rail Bhavan,
New Delhi.

By Advocate Mr. P. Haridas

The Application having been heard on 8.6.2004 the Tribunal delivered the following on 29.9.2004.

ORDER

HON'BLE MR. H.P. DAS, ADMINISTRATIVE MEMBER

The Application is mired in a welter of loose ends partly due to the passage of time that changed the destinies

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of some of the applicants thereby taking them out of the party array and partly due to the manner in which facts of the case have been foisted based on incomplete appreciation of the issues in focus. Applicants 1, 3 and 4 are no longer in party array. The surviving applicants 2 (V. Asokan) and 5 (T. Gopalakrishnan) therefore are in reckoning as the first and second respondent respectively and the facts of the case as well as the reliefs sought would stand aligned to this reckoning in their contest only.

2.

The applicants are working as Khalasi Helpers (Carriage and Wagon), Coach depot Office, Southern Railway at Thiruvananthapuram. They are aggrieved by the denial of promotion to the next higher rank of Technician-III (Carriage & Wagon), eventhough their juniors have been promoted under the rankers quota and direct recruitment quota. It is their contention that by unduly albeit arbitrarily privileging the direct recruits and rankers against promotees, the respondents have deprived them of the only promotional avenue available. They are seeking the following reliefs:

a) Set aside Annexure A-2

b) Issue necessary directions to the respondents to conduct selection and appointment/promotions to the vacancies of Technician-III (Carriage & Wagon) only after ascertaining the vacancies of each year as per the quotas fixed in para 159 of the Indian Railway Establishment, Manual Volume-I, simultaneously and fix the seniority in accordance with law.

c) Issue necessary directions to the respondents to grant promotion to the applicants in the 50% quota vacancies of Technician III (Carriage & Wagon) in preference to their juniors if they are found eligible and suitable in accordance with law

d) Issue necessary directions to the respondents restraining them from making appointments /promotions to the vacancies of Technician-III (Carriage & Wagon) otherwise than and in excess of the respective quotas prescribed in para 159 of the Indian Railway Establishment Manual, volume-I

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e) Award costs of these proceedings

(f) grant such other reliefs as this Hon'ble Tribunal deems fit and proper.

3. The learned counsel for the applicants invited our attention to the judgment (20.7.2001) of this Tribunal wherein one of the two applicants was a party (V. Asokan) and the Tribunal had directed the General Manager, Southern Railway to consider the question of proper application of quota fixtures in promotion and to issue appropriate orders. A-2 orders contain the results of such consideration. It would be seen from A2 orders, the learned counsel submitted, that the respondents have failed to provide the details of vacancies filled since 1988 until 2001 and no explanation has been furnished as to how they filled the rankers quota and direct recruitment quota in excess of stipulation, in violation of Para 159 of the Indian Railway Establishment Manual. It is for this reason that applicants have been compelled to approach this Tribunal with fresh Application seeking redressal of their grievances.

4. The learned counsel for the respondents argued that A-2 orders did not show the details of vacancies filled as there was no direction to this effect. However, the details have now been submitted (R-5) and it would be seen therefrom that from 1988 to 2002, 268 vacant posts were filled up in the ratio of 174:54:40. This should establish that promotee quota which is limited to 50% of vacancies (later changed to posts) has been exceeded overall, while Rankers Quota and Direct Recruit Quota continue to bear shortages. As on 5.8.2002, the sanctioned strength in the category of Technician Grade-III (Carriage & Wagon), was 187 against

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which 93 were promoted against the promotee quota, while large shortages persist in the Rankers Quota and Direct Recruit Quota. There are 26 Rankers against 47 due and 40 against 47 DR Quota due. It could not thus be argued that promotee quota has in any manner been under utilised to grant promotion to rankers and direct recruits.

5. Heard. Para 159 (1) of the IREM provides as under (after incorporating the correction of replacing 'vacancies' by 'posts' effective from 10.2.1995, inserted by Correction Slip NO. 134 dated 23.7.2002)

"159(1) - The posts in the category of Skilled Artisans Grade-III in scale 950-1500 in various Engineering departments will be filled as under:

(i) 25% by selection from course completed 'Act apprentices' ITI passed candidates and Matriculates from the open market, serving employees who are course completed Act Apprentices or ITI qualified could be considered against this quota allowing relaxation as applicable to serving employees.

(ii) 25% from serving semi-skilled and unskilled staff with educational qualification as laid down in Apprentices Act and

iii) 50% by promotion of staff in the lower grade as per prescribed procedure"

6. Thus, it is against this quota structure that we must see the claim of the applicants. The applicants are eligible for promotion under 50% promotee quota. Until 1995, the quota was reckoned against vacancies. The vacancy position from 1988 onwards upto 1994 as provided in R5 shows that by the end of 1994 there were 89 promotions under promotee quota against 75 or 76 available. From 1995 onwards until 2002 the position was no different despite the change from vacancy

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based roster to post based roster. Overall, until 131.7.2002, there were 174 promotees against 268 vacancies filled up. Reckoned on the basis of posts, we find that as on 5.8.2002 the sanctioned strength in the category of Technician Grade-III (C&W) was 187, against which promotees occupy 92 posts available against 93 due, while there are 21 shortages in the rankers quota and seven shortages in DR quota. Therefore there is no substance in the contention of the applicants that their quota has been allowed to remain underutilised to benefit the rankers, direct recruits and compassionate appointees. No juniors, in the same feeder category, who were promoted earlier than the applicants, have been cited. Those appointed on compassionate ground or granted out of turn promotion under separate schemes are not to be reckoned for the operation of the quota. A-3 document that shows the scale check details as on 1.5.1999 is of no avail as the applicants have not submitted exactly how that position would be material. Further, the authenticity of the document is not established. A-2 orders issued in pursuance of A1 orders of this Tribunal do not apparently suffer from any infirmity. In view of the fact that there is no ground to hold that the promotee quota has in any manner been operated short or vitiated to the detriment of the applicants, we consider it neither necessary nor helpful to interfere in the operation of the promotional processes and procedures as far as the applicants are concerned.

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In the result we dismiss the Application, leaving the parties to bear their own costs.

Dated the 29th September, 2004

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H.P. DAS
ADMINISTRATIVE MEMBER

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A.V. HARIDASAN
VICE CHAIRMAN

