

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

DATE OF DECISION : 30.3.90

P R E S E N T

HON'BLE SHRI N.V KRISHNAN, ADMINISTRATIVE MEMBER  
&

HON'BLE SHRI N.DHARMADAN, JUDICIAL MEMBER

ORIGINAL APPLICATION NO. 94/89

C.P Velayudhan .. Applicant

v.

1. Union of India,  
represented by Secretary  
to Government, Ministry of Railways,  
New Delhi.

2. The Chief Commercial Superintendent,  
Catering, Southern Railway,  
Madras-3.

.. Respondent

M/s. M.Ramachandran & P.Ramakrishnan .. Counsel for the  
applicant

M/s. M.C Cherian, Saramma Cherian & .. Counsel for the  
T.A Rajan respondents

J U D G M E N T

Hon'ble Shri N.Dharmadan, Judicial Member

The applicant who was engaged in the Railway on the basis of Ext R1(a) agreement as a regular commission vendor on 9.5.1973 filed this application for a direction to take up his case for regular appointment considering his service from 1973.

2. According to the applicant he commenced his service as a bearer-cum-steward in Catering Department (Mobile Unit) of the Southern Railway. Though the appointment was originally made on a commission basis, the practice followed by the Railway was to regularise such appointments in the Catering Department of the Railway. Since there was a break in service of the applicant in 1980 due to his illness, his request for regularisation from 1973 was not considered by the respondents. Annexure-1 is the representation submitted in this behalf. According to the applicat

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his juniors had been absorbed in the regular vacancies and hence there is discriminatory treatment. These aspects have been highlighted by him in Annexure-1 representation which refers to earlier representations submitted by him.

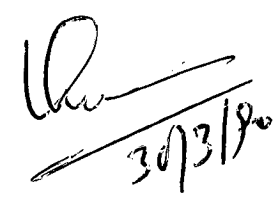
3. The Railway in the counter affidavit filed by the Chief Commercial Superintendent, Southern Railway, Madras stated that he is filing the same on the basis of personal information collected from the applicant himself, because the files containing the service particulars of the applicant are not traceable. However, he has admitted that the applicant has joined as a commission vendor in 1973 on the basis of the agreement; a form of the agreement is produced as Ext. R1(a). He also stated that the applicant was involved in a police case and later fell sick in April 1980 and was bed-ridden for about two months. Thereafter when the applicant approached the Railway, he was permitted to work as commission vendor with effect from August, 1980 onwards as a fresh appointee. The representations alleged to have been sent for regularisation were not received by the respondents. He has also submitted that the applicant will be considered for regular absorption on the basis of his working as commission vendor from August, 1980 onwards, when fresh absorptions in the regular service are made in future.

4. In these circumstances we think this OA can be disposed of with the following directions in the interest of justice. The applicant shall file a detailed representation with all supporting evidence and certificates to show that he was not really involved in any crime but actually laid up in 1980 and the break in service happened solely on account of <sup>illness</sup> <sub>happened solely on account</sub> <sup>of</sup> <sub>L</sub>

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of the illness so that he can satisfy the respondents that his absence from duty was due to reasons beyond his control and it could be condoned while regularising his service. The applicant shall file such a representation within a period of one month from today. If such a representation is filed by the applicant, the respondents shall consider his claim for regularisation from 1973 onwards in the light of the evidence that he may produce along with such representation and dispose of the same in accordance with law within a period of three months from the date of receipt of such representation. The application is disposed of with the aforesaid directions. There will be no order as to costs.

  
(N. DHARMADAN)  
JUDICIAL MEMBER

  
(N. V. KRISHNAN)  
ADMINISTRATIVE MEMBER

n.j.j

CEP 76192 W  
SA 94/89

PSHM DVD

Mr P.S. Pillan by proxy  
Mr McCherian

learned Counsel for original  
respondents prays for sometime for getting  
instruction. Post for hearing on 12.8.92

(ND)  
21/7

(PSHM)  
21/7

Ms

(24)

PSHM DVD

Mr P.S. Pillan by proxy  
Mr McCherian by proxy

learned Counsel for applicant  
prays for a week time for verification  
of the ~~sub~~ statement contained in the  
reply. List for final hearing on

19.8.92

(ND)  
12/8

(PSHM)  
12/8

PSHM DVD

Mr P.S. Pillan  
Mr T.R. Rajan

~~At~~ At the request of the learned  
Counsel for the petitioner list for final  
hearing on 2.9.92

(ND)  
19/8

(PSHM)  
19/8

Statement by  
registered on 24/8/92  
2/25/9

(19)

PSHM DVD

ECP 76/92

Mr Girindaswami

Mr TA Raju

At the request of learned  
counsel for respondents post on 21.9.92  
no further adjournment will be given.

*(ND)*  
2/9

*(CASHM)*  
2/9

PSHM & ND

(20) Mr P Sivan Pillai  
Mr MC Cherian

Learned counsel for the respondents prays for  
a months' time. Having heard the counsel, we grant  
3 months' <sup>weeks</sup> time to comply with the directions. No  
further time will be given. Post on 12.10.92.

*(ND)*  
ND

*(PSHM)*  
PSHM

21.9.92

12.10.92

Mr. Sivan Pillai  
Mr. Cherian

Heard the learned counsel for both  
parties. It is accepted that the respondents have  
disposed of the representation as directed by  
the Tribunal on 30.3.90. Accordingly there is no  
contempt. CP(C) is closed and notice discharged.

*(N.Dharmadan)*  
(N.Dharmadan)  
J.M.

*(SP Mukerji)*  
(SP Mukerji)  
12.10.92 VG

F.O.  
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14/10  
m REP