

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.101/2008

Thursday this the 12 th day of June, 2008.

CORAM:

HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER

S.K.RAJAMOHANAN, S/o Kuttan Asari,
Ex-Casual Labourer,
Southern Railway, Trivandrum Division,
Residing At "SABARI NIVAS"
Chaikottu Konam, Maruthathoor,
Amaravila, Neyyattinkara,
TRIVANDRUM DISTRICT. Applicant

(By Advocate Shri.T.C.Govindaswamy)

Vs.

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 Shri.Thomas Mathew Nellimoottil)

The application having been heard on 12.06.2008,
the Tribunal on the same day delivered the following.

ORDER

HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER

The applicant is an Ex-casual Labourer of Southern Railway, Trivandrum Division. According to him he served under Railways in three spells viz.,

- a) From 6.2.79 to 5.7.79 (127 days) in Engg/CN/IOW/CN/ELR at Nagarcoil vide page 5 & 6 of the O.A. and
- b) from 21.1.1980 to 5.12.1980 under Permanent Way Inspector/Nagarcoil vide page 8 & 9 of the O.A. and
- c) for a period of seven days from 22.11.1981 to 28.11.81 under Permanent Way


Inspector/Tvc as ELR Khalasi vide page 7 of the O.A.

2. For the purpose of regularisation, as per A-3 High Court judgment, casual labourers who have served for 360 days and above could be engaged on regular basis even if they are over-aged. Since according to the applicant, he had served, in all for 442 days, he claims that his case is covered under the aforesaid judgement.

3. Vide the counter filed by the respondents, it is contended that the records held by them indicate that the applicant had served only for 308 days and as such his case is not covered under the High Court judgement.

4. It appears that, the records verified by the respondents relate to the period of Casual Labourer for the period from 21.1.80 to 5.12.80 under the Permanent Way Inspector (Construction), Nagarkoal only. For, according to the details at page 8 of the O.A. the total number of days of casual labour service works out to 308 days. In other words, either the records do not seem to be available in respect of 127 days during 1979 and 7 days in November 1981 or these have not been considered by the respondents inadvertently. Counsel for the applicant submits that, the applicant is in possession of the Original Casual Labour Card in respect of the period from 6.2.79 to 5.7.79. In case the records are not available with the respondents for this period they can very well verify the service rendered by the applicant from the Original Casual Labour Card. Even if the other service period is ignored, if the period of 127 days is included with the period of 308 days the applicant's case squarely could fall within the ambit of the judgement of the Hon'ble High Court vide Annexure A-3.

5. Counsel for respondents invites my attention to para 7 of the reply statement wherein it has been stated that, the judgement of the Hon'ble High Court has been referred to the Railway Board. Be that as it may, as long as the high Court's judgment has not reversed by the Apex Court, the same shall be taken as binding. As such,



ends of justice will be met if a direction is given to the applicant to make a representation to the respondents enclosing the Original Casual Labour Card for the period from 6.2.79 to 5.7.79 within a period of 15 days from today and a direction is given to the respondents that on receipt of the same the respondents shall verify the said documents and in case this has not been taken into account by them earlier, the same should be taken into account and the total period of casual labour service rendered by the applicant worked out. If the total period exceeds 360 days, on the basis of the High Court's judgement the applicant shall be entitled to regularisation, subject of course, to fulfillment of other conditions. The decision by the respondents shall be taken within two months from the date of receipt of the representation and the Original Casual Labour Card. Care must be taken by the applicant to ensure that the original casual labour card is made available to the respondents preferably by hand and the respondents shall in token by receiving the same, hand over necessary acknowledgment for the same.

6. O.A. is disposed of as above. No costs.

Dated the 12 th June 2008.



Dr.K.B.S.RAJAN
JUDICIAL MEMBER