

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.114/09

Thursday this the 17th day of June 2010

C O R A M :

**HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER
HON'BLE Mr.K.GEORGE JOSEPH, ADMINISTRATIVE 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 Mr.TC.Govindaswamy)

V e r s u s

1. **Union of India represented by the General Manager,
Southern Railway, Headquarters Office,
Park Town PO, Chennai – 3.**

2. **The Divisional Railway Manager,
Southern Railway, Trivandrum Division,
Trivandrum – 14.**

3. **The Divisional Personnel Officer,
Southern Railway, Trivandrum Division,
Trivandrum – 14.**

4. **The Chief Engineer,
Construction, Southern Railway,
Egmore, Chennai – 8.**

...Respondents

(By Advocate Mr.Thomas Mathew Nellimoottil)

**This application having been heard on 17th June 2010 this Tribunal
on the same day delivered the following :-**

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ORDER

HON'BLE MR.GEORGE PARACKEN, JUDICIAL MEMBER

This is second round of litigation by the applicant for his regular absorption in the respondents Railway. According to him, he had rendered 442 days of service as detailed below :-

1. From 6.2.1979 to 5.7.1979 (127 days) in Engg/CN/IOW/CN/ELR at Nagarcoil.
2. From 21.1.1980 to 5.12.1980 (308 days) under Permanent Way Inspector/Nagercoil.
3. From 22.11.1981 to 28.11.1981 (7 days) under Permanent Way Inspector/Trivandrum as ELR Khalasi.

2. For the purpose of regularisation, a casual labourer is required to render a minimum of 360 days as held by the Hon'ble High Court of Kerala in WPC 21777/07 decided on 29.11.2007. However, the contention of the respondents was that as the applicant had rendered only 308 days, he was not covered under the aforesaid judgment and, therefore, he was not entitled for absorption. He has, therefore, approached this Tribunal earlier vide OA 101/08. After hearing the parties, this Tribunal observed that the records verified by the respondents relate only to the period of casual service from 21.1.1980 to 5.12.1980 under the Permanent Way Inspector (Construction), Nagarcoil, according to which, the total number of days of casual service rendered by him was 308 days, but other records of his service were either not available or they were not considered by the respondents inadvertently. As the original casual labour card in respect of

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the period from 6.2.1979 to 5.7.1979 was available with the applicant, the respondents were asked to verify the said casual labour card. This Tribunal has also observed that 127 days more of casual service claimed to have been rendered by the applicant is added to the already verified 308 days, he would automatically be covered by the aforesaid judgment of the High Court. Therefore, this Tribunal has given a direction to the applicant to make a representation to the respondents enclosing the original casual labour card for the period from 6.2.1979 to 5.7.1979. On receipt of the same, the respondents were also directed to consider it and if it is found that the total number of days of casual service exceeds 360 days, his services should be regularised. Pursuant to the aforesaid direction, the applicant has submitted the Annexure A-5 representation dated 14.7.2008 enclosing therewith original casual labour card for the period from 6.2.1979 to 5.7.1979. He has also pointed out that his name has appeared in the seniority list of the retrenched casual labourers at Sl.No.2349. On consideration of the aforesaid original casual labour card the respondents have now issued the impugned Annexure A-6 letter dated 2.2.2009 stating that on verification it was seen that the applicant did not produce the original casual labour card for the period from 6.2.1979 to 5.7.1979 but the document which was produced also did not contain his LTI number. Therefore, it could not be taken into account and treat it as a genuine one and his claim that he has worked during the aforesaid period cannot be accepted. Moreover, during 1997 when the pre 1.1.1981 retrenched casual labourers who have registered their names in the supplementary

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live register were urged to submit the documents for the purpose of preparation of merged seniority list he have submitted only the copy of casual labour card pertaining to the period from 21.1.1980 to 5.12.1980 (308 days). Accordingly his name was included in the merged seniority list at Sl.No.2349.

3. The contention of the applicant is that he was having 442 days of casual service and, therefore, he was entitled to be considered for absorption as a regular Group 'D' employee in preference to persons with lesser number of days of service than him and the refusal on the part of the respondents to grant the same accordingly is arbitrary, discriminatory and violative of the constitutional guarantees enshrined in Articles 14 and 16. He has also submitted that in the light of the decision in WPC No.21777/07 decided on 29.11.2007 (supra) the respondents are bound to consider and absorb him in preference to persons with lesser number of days of service than him. He has also submitted that the contention of the respondents that the casual labour card submitted by him does not contain the LTI number and, therefore, the same cannot be accepted is without substance and merit. According to him, first of all, casual service cards are issued by the concerned supervisory officials and the entries therein are also made by them and the applicant cannot be faulted for not getting his LTI on it. Secondly, it is not mandatory that every service card should bear the LTI number as there is no provision to do so. There are also no rule which says that a service card without LTI number would be invalid. Thirdly, the



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prescribed proforma of the service card does not provide any space or column for the LTI number. Therefore, the contention of the 4th respondent that the casual labour service card submitted by the applicant cannot be treated as genuine in the absence of an LTI number is without substance and merit.

4. We have heard the learned counsel for the parties. It is seen that the applicant had produced a copy of the Annexure A-1 document which is a photocopy of the casual labour card for the period from 6.2.1979 to 5.7.1979 (127 days). His LTI has also been recorded in the said copy. The only objection of the respondents is that no number has been assigned to the said LTI and, therefore, the said document cannot be relied upon. There is no dispute that the number has to be assigned by the respondents and if no number is assigned in the original casual labour card, the applicant cannot be faulted for the same. Moreover, the respondents have not produced any order, instructions to show that it is necessary that the casual labour card should contain the LTI number. On the other hand, counsel for the applicant has relied upon para 2513 of the Railway Establishment Manual Vol.I which does not insist for any LTI number to be recorded in the casual labour card. The said rule is reproduced as under :-

2513. A casual labourer shall be given a card to be retained by himself in which the following particulars could be indicated by the supervisory official concerned, under his signature, affixing the office seal or designation :-



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1. Name of the employee (in Block Letters)
2. Father's name
3. Date of Birth
4. Age at initial casual employment Years Months
5. Personal marks of identification
 - (i)
 - (ii)
6. Date of engagement
7. Date of termination
8. Nature of job on each occasion
9. Signature of Supervisor
10. Name in full and Designation of Supervisor

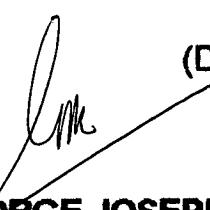
In any case, the respondents could have compared the LTI of the applicant with a number available on the casual labour service card containing the details of 308 days of casual service rendered by him which has already been admitted by the respondents with that of the LTI of the applicant on the casual labour service card containing the details of 127 days from 6.2.1979 to 5.7.1979. This is particularly so because the respondents have not disputed the contention of the applicant that he has worked during the aforesaid period under the IOW/CN/ERL whose signature is also available on the Annexure A-1 document. It is also to be noted here that the retrenched casual labourers after several years of their fight before various Courts have finally got the relief for absorption in the Railways after the Apex Court has decided their case in their favour in the case of Inderpal Yadav Vs. Union of India [(1985) SCC (L&S) 526]. The very purpose of the judgment is to extend the benefit to all the retrenched casual labourers who are eligible for the same. But the respondents had denied the same to many of these casual labourers on the ground that they are over aged.



However, the High Court of Kerala vide its judgment in WPC 21777/07 decided on 29.11.2007 (supra) has held that any casual labourer with a minimum of 360 days of casual service at his credit shall not be denied absorption on the ground of over age.

5. In view of the above position, this case cannot be dragged on further. We, therefore, allow this OA and declare that the applicant has rendered 442 days of casual service and he is entitled for regular absorption as a Group 'D' employee in Trivandrum Division of Southern Railway in preference to persons with lesser days of service than him. Consequently, we direct the respondents to absorb him accordingly subject to fulfillment of other conditions like medical examination etc. and if he is found suitable, he shall be appointed notionally from the date his junior with less than 442 days of service in the retrenched casual labour list has been absorbed in the Railways. The aforesaid direction 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 17th day of June 2010)


K.GEORGE JOSEPH
ADMINISTRATIVE MEMBER

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GEORGE PARACKEN
JUDICIAL MEMBER