

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.115/98

Dated the 28th of November, 2000

CORAM:

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN

HON'BLE SHRI G.RAMAKRISHNAN, MEMBER (A)

N.Ravindran,
retired Keyman,
Southern Railway, residing at Nair Veedu,
Pattancherry, Chittur,
Palghat Distt. .. Applicant

(By Advocate Mr. P.Ramakrishnan)

vs.

1. The General Manager, Southern Railway,
Headquarters Office, Chennai.
2. The Divisional Personnel Officer,
S.Railway, Madurai.
3. The Divisional Manager, Southern Railway,
Divisional Office, Madurai. .. Respondents


(By Advocate Mr. K.V.Sachidanandan(rep.))

The Application having been heard on 28.11.2000 the Tribunal
on the same day delivered the following:

ORDER

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN:

Applicant who retired on superannuation while working
as Keyman on 30th November, 1995 has filed this application
aggrieved by Annexure A6 memorandum dated 26.11.96 issued to
him by the second respondent informing him that his
representation addressed to Pension Adalat having been examined
in detail in terms of the directions contained in the order of
the Central Administrative Tribunal, Ernakulam in OA No.1238/90
and he having been given the benefits due to him such as
revision of pay etc., nothing further is found due to him.



Applicant in the Original Application has alleged that pursuant to the directions contained in the order of the Tribunal in OA 1238/90 though the applicant's date of attainment of temporary status advanced to 8.10.63 and his date of empanelment as Gangman was advanced to 31.12.77 and he was placed in between M.Aruchamy and V.Rajan, he should have been placed above M.Uthandan and M.Thiagarajan and given seniority, fixation of pay and consequential benefits accordingly. It is further stated in the application that in his representation (Annexure A-4) dated 16th August, 1995, he put forth this claim but the same has not been considered by the respondents. The impugned order dated 26.11.96 informing the applicant that nothing further is due, according to the applicant, is illegal and violative of his fundamental rights and, therefore, the applicant has filed this application for a declaration that he was entitled to be empaneled and absorbed in regular service on the date on which his juniors in service like Uthandan, Soosairathnam etc. were empanelled and absorbed and a direction to the respondents to treat him as a regular employee with effect from 8.9.64 the date on which Uttandan was appointed as a temporary Gangman with consequential benefits.

2. Respondents in the reply statement contend that the claim in this application is barred by the principle of constructive res judicata as the claim made in the application was not put forth in the OA 1238/90, that the claim of the applicant that he was senior to M. Thiagarajan is not borne out by the records as while the applicant was only a temporary status attained casual labourer, persons mentioned by the



respondents had already been appointed on regular basis as Gangmen in the year 1964 and that the fact that the applicant was drawing one rupee more than those persons did not entitle him to seniority. Seniority in service, according to the respondents, is reckoned from the date of regular absorption in service. All that the applicant was entitled to have been given as per A2 & A3 orders, respondents contend that the application is devoid of merits and is liable to be dismissed.


3. Giving the facts and circumstances our anxious consideration and going through the material placed on record, we find that the application has no merit at all. If the applicant had any claim for earlier absorption in service than Uthandan, Soosairathnam etc., the claim should have been put forth at the appropriate time. Uthandan, Soosairathnam, Thiagarajan etc. were all absorbed in regular service of the Railways in the year 1964. The applicant did not raise any grievance in that regard except that he made a representation Annexure A4. It is stated in the reply statement that the A4 representation has not been received in the office of the respondents. Further, the applicant has not been able to make out that Uthandan, Soosairathnam or Thiagarajan were junior to

.4.

him. Since in O.A.1238/90, the applicant had not claimed seniority over Uthandan, Soosairathnam or Thiagarajan, the present claim is barred by principles of constructive res judicata.

4. In the light of what is stated above, finding no merit, the application is dismissed leaving the parties to bear the costs.

Dated 28th November, 2000.


(G. RAMAKRISHNAN)
MEMBER (A)


(A.V. HARIDASAN)
VICE CHAIRMAN

/ash/

Annexures referred to in this order:

- A4: True copy of the representation dated 16.8.95 from the petitioner to the 2nd respondent.
- A6: True copy of letter No.U/P.500/I/2/3/PA 161/96 dt.26.11.96 issued by the 3rd respondent.
- A2: True copy of order No.U/P.353/I/KLGD/WP dt.23.3.94/15.4.94 issued by the 2nd respondent.
- A3: True copy of office order No.197/94/WP dt.28.9.94 issued by the 2nd respondent.