

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

**ORIGINAL APPLICATION NO. 125 OF 2007**

*Monday this the 15<sup>th</sup> day of December, 2008.*

**CORAM:-**

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

P.Babu  
Sarang  
Office of the Deputy Chief Engineer  
Southern Railway, Quilon ... Applicant

( By Advocate Mr. Siby J Monippally )

versus

1. Union of India represented by  
Chief Personnel Officer  
Southern Railway  
Chennai
2. The Senior Divisional Personnel Officer  
Southern Railway  
Trivandrum Division, Trivandrum .... Respondents

( By Advocate Mr. K.M.Anthru )

The application having been heard on 27.11.2008, the  
Tribunal on 15/12/2008 delivered the following :-

**ORDER**

**HON'BLE Dr. K.S.SUGATHAN, ADMINISTRATIVE MEMBER**

The applicant is seeking a direction to the respondents to consider his service as regular with effect from 11.3.1997 and also take into account 50% of his casual service from 1.1.1981 for the purpose of all service benefits including ACP and pensionary benefits. The applicant joined the railway service as a casual labourer (Maphila Khalasi) in 1971 and was working as a Sarang. He was given CPC status with effect from 1.1.1981 and was regularised in a Group D pay

scale as Gangman with effect from 11.3.1997. After he was regularised in a Group D scale he filed OA905/1997 in this Tribunal contending that he was entitled to be regularised in a Group C pay scale as per the Railway Board order dated 9.4.1997. That OA was disposed of by this Tribunal on 30.8.2000 with a direction to the respondents to consider the regularisation of the applicant in a Group C pay scale in accordance with the Railway Board order dated 9.4.1997. The Tribunal also directed that till such time the consideration is completed and relevant orders issued the applicant shall not be disturbed from the present posting. The respondents have not so far regularised the applicant in Group C pay scale. He is therefore continuing in a Group C pay scale as a casual labourer on the basis of the aforesaid order of this Tribunal. It is contended on behalf of the applicant that the Railway Board order dated 9.4.1997 is explicit and clear that the applicant who is working in a Group C category should be granted regularisation by providing them chance to appear in the RRB examinations and all other examinations conducted by the Railways for appointment to Group C posts by relaxing the age. Further, the order dated 9.4.1997 stipulates such casual labourers as the applicant are also entitled to be regularised against the 25% promotion quota of skilled artisans.

2. The respondents have contested the prayer in the OA. It is contended in the reply that the applicant who is working as a Casual labourer in the Construction Organization in a skilled grade has been provided with a lien in Group D category of Gangman in the Division , but he has not joined the post of Gangman. Therefore his regularisation in a Group D scale has not been given effect to. The OA 905 of 1997



was disposed by this Tribunal directing that the applicant should be considered for regularisation in a Group C post according to his qualification and entitlement, giving him the benefit of the Railway Boards letter dated 9.4.1997. There is no direction to absorb the applicant in a Group C post. As the number of vacancies in Group C post available for promotion quota earmarked for casual labourers (12-1/2%) is not high, the turn of the applicant for such absorption has yet not come. The applicant has not been denied any chances to appear in the examinations conducted by the Railway Board. The applicant is not entitled for ACP as he is still working as a casual labourer.

3. In the rejoinder filed by the applicant it was contended that till today the applicant was not invited to appear in any examination. The applicant also relied on the judgment of the Hon'ble Supreme Court in VM Chandra case ( AIR 1999 SC 1624) as well as the judgments of this Tribunal on OA630 of 2007 and OA665 of 2007 decided on 28.10.2008. In the additional reply filed by the respondents, it is stated that as per letter dated 9.4.1997, the skilled casual labourers are to be permitted to appear in the examinations by relaxing the age limit only when they apply in response to the notifications and on fulfilling the qualifications. There is no provision for outright absorption into Group C pay scale. The applicant has not chosen to apply for any examinations notified so far.

4. We have heard the learned counsel for the applicant Shri Siby Monipally and the learned counsel for the respondents Shri K.M.Anthru. We have also perused carefully the documents on record.




5. The applicant has prayed that his service should be treated as regular with effect from 11.3.1997, i.e. the date on which he was regularised in a Group D pay scale. In other words what he is asking is that he should be deemed to have been regularised in a Group C pay scale instead of in a Group D pay scale, with effect from 11.3.1997 and consequently 50% of his casual labour service prior to the regularisation should be counted for pensionary and ACP benefits. The applicant's prayer in OA905 of 1997 was also similar, namely that his absorption in a Group D post and reduction of the pay scale was illegal and not according to rules. The OA905 of 2007 was disposed of by this Tribunal with the following directions:

*" i. The applicants in all these cases shall be considered for regularisation in Group 'C' according to their qualification and entitlement giving them the benefit of Railway Board's order dated 09.04.1997.*


ii. So long as the applicants are retained in the construction organization for performing the work which they have been doing prior to their empanelment by order dated 10/11.3.97 they shall be continued to be paid at the same rate as they were being paid till that date. Respondents shall consider the regularization of the applicants in Group 'C' giving them the benefit of the Railway Board's circular dated 9.4.97 as expeditiously as possible and till the resultant orders are issued they shall not be disturbed from the present posting. No costs."

6. The aforesaid direction was issued by taking note of the provisions contained in the Railway Board's letter dated 9.4.1997 which reads as follows:

 " The question of regularization of the casual labour working in Group 'C' scales has been under consideration of the Board. After careful consideration of the matter, Board have decided that the regularisation of casual labour working in Group 'C' scales may be done on the following lines:

- i, All casual labour/substitutes in Group 'C' scales whether they are Diploma Holders or have other qualifications, may be given a chance to appear in examinations conducted by RRB or the Railways for posts as per their suitability and qualification without any age bar.
- ii. Notwithstanding (i) above, such of the casual labour in Group 'C' scales as are presently entitled for absorption skilled artisans against 25% of the promotion quota may continue to be considered for absorption as such.
- iii, Notwithstanding (i) and (ii) above, all casual labour may continue to be considered for absorption in Group 'D' on the basis of the number of days put in as casual labour in respective units."

7. As per the provisions of the letter dated 9.4.1997 extracted above, there are three alternative courses of action stipulated for the purpose of regularisation of the casual labourers working in Group C pay scales. These alternative courses of action are: (a) Chance to appear in examinations conducted by the Railway Recruitment Board in relaxation of the age bar, (b) absorption against the 25% promotion quota for skilled artisans and (c) absorption in Group D posts. It is not disputed that the applicant was working as a casual labourer in a Group C pay scale. The applicant has been regularised in a Group D pay scale, which is in accordance with the third alternative course of action. Therefore the regularisation is very much in accordance with the letter dated 9.4.1997. The Tribunal in OA 905/1997 had already directed that the applicant should be considered for absorption in a Group C pay scale and till such



time he shall not be disturbed from the present posting. The applicant has not been able to establish any new ground that makes him eligible for direct absorption in a Group C pay scale. We have perused the judgment of the Hon'ble Supreme Court in VM Chandra case relied on by the applicant. The facts of that case is distinguishable in as much as the applicant therein was a Technical Mate and there was a reference to a specific communication of the Railways regarding absorption of casual labour Technical Mates. Therefore the judgment of the apex Court in that case cannot come to the rescue of the applicant. We have also perused the order of this Tribunal in OA 630/07 and 665/07 relied by the counsel for the applicants. In both the aforesaid OAs, the applicants were Technical Mates and they cannot be compared with the applicant in this OA. Besides, the prayer that was allowed in OA630/07 and 665/07 was to permit the applicants to appear in the examination to the post of Juniiior Engineers Grade II (works) consequent to a notification. In the present case the prayer is to treat the applicant as having been regularised in a Group C pay scale with effect from the date on which he was regularised in a Group D Scale. Therefore the facts are entirely different.

8. For the reasons stated above, we see no merit in this OA. The OA is therefore dismissed. No costs.

Dated, the 15<sup>th</sup> December, 2008

  
**Dr.K.S.SUGATHAN**  
**ADMINISTRATIVE MEMBER**

  
**Dr.K.B.S.RAJAN**  
**JUDICIAL MEMBER**