

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 141/2001

Thursday this the 15th day of November, 2001.

CORAM

HON'BLE MR.G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

K.K.Ramachandran
S/o Kittu
Ex-Casual Labour Khalasi
Southern Railway, Palakkad Division
Residing at Kalathipura
Kampa, Kinavalloor P.O.
Palakkad District. Applicant.

[By advocate M/s Santhosh & Rajan]

Versus

1. Union of India represented by the General Manager Southern Railway, Chennai.
2. The Divisional Railway Manager Southern Railway, Palakkad.

[By advocate Mr.K.V.Sachidanandan]

The application having been heard on 15th November, 2001, the Tribunal on the same day delivered the following:

ORDER

HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

Applicant who is a retrenched casual labour khalasi of the Palakkad Division of Southern Railway has approached this Tribunal through this Original Application seeking the following reliefs:

- i) Call for the records leading to Annexure A8 and set aside the same.
- ii) Declare that the medical examination declaring the applicant unfit for appointment to the post of Gangman as illegal;
- iii) Declare that the applicant is entitled to be considered for appointment to the post of Gangman based on A2 certificate or in the alternative declare that the applicant is entitled to be considered for appointment to posts requiring lower medical classification based on A5 order.
- iv) Declare that the non-consideration of the applicant for appointment to the posts requiring lower medical classification as illegal.

John G. Clegg

- v) direct the respondents to appoint the applicant as Gangman or in the alternative direct the respondents to appoint the applicant in any one of the posts which require lower medical classification from the date of appointment of his immediate junior with all consequential benefits; and
- vi) Grant such other further reliefs that this Hon'ble Tribunal may deem fit and proper.

2. According to the applicant, he was initially engaged under the Permanent Way Inspector (Construction), Southern Railway, Palakkad on 4.4.1983 and continued till 17.9.1985, having worked for 866 days. While working so, he was sent for medical examination and was found fit in B1 classification as per A-2 medical certificate dated 23.6.83. He was granted temporary status with effect from 10.4.84. The Senior Divisional Personnel officer, Southern Railway, Palakkad by A-3 letter dated 15.6.98 directed the applicant to attend his office on or before 25.6.98. By A-4 letter dated 22.9.98 the applicant was directed to attend office on 7.10.98 for considering his case for re-engagement as Gangman in the Engineering Department based on his name in the Live Register. He was sent for medical examination. The Medical Officer told him that he was found unfit in B1 classification. He was not offered alternative categories requiring lower classification in the posts like Colony Gangman, Drainage Gangman, Sweeper, Peon, Caretaker, Goods Shed Porter, Luggage Porter, Call Boy, Watchman etc. In terms of A-5 letter of the Railway Board dated 13.12.72 he filed A-6 representation dated 8.6.99 to the second respondent requesting to consider him for appointment. Having not received any reply, he approached the Tribunal by filing OA No.1002/99. This OA was disposed of by this Tribunal



by A-7 order dated 24.11.99 directing the second respondent to consider A-6 representation and to give an appropriate reply to the applicant. A-8 is the reply received by the applicant. Impugning A8 reply, the applicant has approached this Tribunal seeking the above reliefs.

3. Respondents filed reply statement resisting the claim of the applicant. It was stated that the applicant has not represented against the medical examination or its result. The applicant filed rejoinder reiterating the points made in the Original Application.

4. Today when the OA was taken up, none appeared for the respondents. After some time, an adjournment was sought on behalf of the respondents' counsel which I declined.

5. Learned counsel for the applicant, Sri T.A.Rajan after arguing the case for some time submitted that the applicant would be satisfied if the first respondent is directed to consider a representation to be submitted by the applicant against the decision of the Medical Board declaring him unfit for B1 classification as well as against the non-consideration for alternative category. He also submitted that the applicant would be seeking a review of the medical examination result declaring him unfit for B1 classification and also a prayer for considering him for alternative category of lower medical classification.



6. In the light of the above submission, I dispose of this Original Application permitting the applicant to submit a representation to the first respondent i.e. The General Manager, Southern Railway, Chennai within 3 weeks from today and directing the General manager, Southern Railway, Chennai to consider the same and pass appropriate orders, keeping in view the various instructions of the Railway Board and the rules on the subject, within a period of 3 months from the date of receipt of such a representation.

7. The Original Application stands disposed of as above with no order as to costs.

Dated 15th November, 2001.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER

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APPENDIX

APPLICANT'S ANNEXURE

1. Annexure A1 True copy of service card of the applicant issued by the Railway during the period from 4.4.83 to 17.9.85.
2. Annexure A2 Copy of Medical certificate dated 23.6.98 issued by the Senior ~~Divn'l. Medical Officer~~, Southern Railway, Palakkad to the applicant.
3. Annexure A3 Copy of the letter dated 15.6.98 issued by the Senior Divisional Engineer, Southern Railway, Palakkad to the applicant.
4. Annexure A4 Copy of letter dated 22.9.98 issued by the Assistant Personnel Officer, Southern Railway, Palakkad to the applicant.
5. Annexure A5 Copy of letter No. E/NG/11-71/GL/84 dated 13.12.72 of the Railway Board.
6. Annexure A6 Copy of applicants representation dated 8.6.1999 addressed to the 2nd respondent.
7. Annexure A7 Copy of judgement dated 24.11.99 of this Hon'ble Tribunal in O.A. No.1002/99.
8. Annexure A8 Copy of order of order No.J/P.O.A.1002/99 dated 8.2.2000 of the 2nd respondent.
9. Annexure A9 Copy of letter No.P(R) 11/P/Vol.III dated 30.11.1999 of the Chief Personnel Officer, Southern Railway, Madras.
10. Annexure A10 Copy of memorandum No.P.564/CN/PTJ dated 9.2.89 of the Executive Engineer, Construction, Podanur.

RESPONDENT'S ANNEXURE

1. Annexure R1 True Extract of relevant portion of Master Circular No.48.

Copy to the Executive Engineer (Electrical),
C.P.W.D,