

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.144/2002

Thursday this the 28th day of February, 2002.

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

M. Alphonse, S/o Mudiyappan,
aged 46 years, Ex-Casual Labourer,
Southern Railway,
Trivandrum Division,
residing at J:T.J.Road, Manalikarai PO,
Kanniyakumari District.Applicant

(By Advocate Mr. Martin G.Thottan)

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1. Union of India represented by the
the General Manager,
Southern Railway,
Chennai.3.
2. The Senior Divisional Personnel Officer,
Southern Railway,
Trivandrum.14.
3. The Divisional Railway Manager,
Southern Railway,
Trivandrum.14.Respondents

(By Advocate Mrs. Sumati Dandapani)

The application having been heard on 28.2.2002, the Tribunal
on the same day delivered the following:

O R D E R

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

The applicant who claims to be a retrenched casual
labourer prior to 1.1.81 filed OA 457/2000 alleging that
although he had applied for inclusion of his name in the
Live Register, the respondents did not include his name and
therefore, seeking a direction to the respondents to include
his name at the appropriate place in the list of retrenched
casual labourers belonging to the Civil Engineering

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Department of the Trivandrum Division. The application was by order dated 27.7.2000 dismissed finding that the applicant had not applied for inclusion of his name in the Live Register until 31.3.1987 which was the last date for preferring such claim. Producing a postal receipt alleging that it was the postal receipt received by the applicant while his claim for inclusion was preferred on 30.3.87 the applicant filed an application for review of the order in OA 457/2000. The Review Application was also dismissed. Aggrieved the applicant approached the Hon'ble High Court of Kerala filing OP 19361/2001 which was disposed of with the following observation/directions:

Counsel for the petitioner submitted that sufficient materials are there to show otherwise. Reference was made to Ext.P4. In the facts and circumstances of the case it would be appropriate to give an opportunity to the petitioner to establish the case. Petitioner may approach the department with sufficient materials in the event of which the department would look into the records and find out whether the application was made by the petitioner in time and issue appropriate orders. The OP is disposed of as above.

2. Pursuant to the above directions/observations, the applicant submitted a representation (A.6) producing a copy of the same postal receipt which was produced as Ext.P4 before the Hon'ble High Court of Kerala and which is marked as A3 in this case claiming that he has preferred his name for inclusion in the Live Register before 31.3.1987. This representation was rejected by the impugned order of the second respondent stating that the materials produced did

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not establish that he has applied on time for inclusion of his name in the Live Register.

3. Aggrieved by this the applicant has filed this application seeking to set aside the impugned order and for a direction to the respondents to include the name of the applicant in the proper place in the list of retrenched Casual Labourers belonging to the Civil Engineering Department of Trivandrum Division and to grant consequential reliefs.

4. We have perused the application and the materials appended thereto and have heard Shri Martin G.Thottan, learned counsel of the applicant and Smt.Sumati Dandapani counsel appearing for the respondents. Shri Martin with considerable vehemence argued that the respondents have issued the impugned order Annexure A7 without applying their mind and without following the directions contained in the order of the Hon'ble High Court of Kerala because apart from stating that Enclosure B did not establish that the applicant has applied on time, there is nothing in the order which would show that the respondents have taken care to verify the records in their possession.

5. Smt.Sumati Dandapani on the other hand argued that the Hon'ble High Court of Kerala gave an opportunity to the petitioner before it namely the applicant before the Tribunal to establish his case by producing sufficient

materials to establish that he had applied prior to 31.3.1987 for inclusion of his name in the Live Register and that since the applicant did not produce any material other than the postal receipt Annexure.A3 which does not show that it was issued to the applicant or that it was in relation to the application made by him for inclusion of his name in the Live Register, the order passed by the competent authority cannot be faulted.

6. On a consideration of the facts and circumstances, we do not even prima facie find any material to uphold the claim of the applicant that he had established before the respondents that he had applied for inclusion of his name in the Live Register before 31.3.1987. The postal receipt was produced before the Tribunal along with Review Application 31/2000 as also before the Hon'ble High Court of Kerala as Exbt.P4. The Hon'ble High Court did not say that the Ext.P4 established that the applicant had applied. On the other hand, the High Court permitted the applicant to produce sufficient materials to establish his case. Annexure A3 does not establish that the applicant has registered his name for inclusion of his name in the Live Register before 31.3.1987. It is not discernible from Annexure.A3 that it was a postal receipt issued to the applicant or that it related to a claim of the applicant for inclusion of his name in the Live Register of casual labourers. The applicant has not produced the acknowledgment, which would disclose the name of the sender and would show that the same

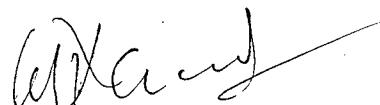
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was received by the addressee. In the absence of any material to establish the claim of the applicant, we find that the respondents could have only rejected the applicant's claim. The application therefore does not merit admission and further deliberation. The O.A. is rejected under Section 19(3) of the Administrative Tribunals Act, 1985.

Dated the 28th day of February, 2002.



T.N.T. NAYAR
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

(s)

APPENDIX

Applicant's Annexures:

1. A-1 : True copy of the service card, in proof of service, issued by the Inspector of Works, Construction, Southern Railway, Nagercoil.
2. A-2 : True copy of the order dt. 27th July 2000 passed by this Hon'ble Tribunal in OA 457/2000.
3. A-3 : True copy of the Postal Receipt No. 173 dt. 30.3.07 issued from Marthandam Bridge Post Office.
4. A-4 : True copy of the order dt. 6th February 2001 in RA No. 31/2000 in OA No. 457/2000.
5. A-5 : True copy of the judgement dt. 2nd July 2001 in OP No. 19361 of 2001 (S).
6. A-6 : True copy of the representation dt. 13.8.2001 addressed to the 1st respondent.
7. A-7 : Order bearing No. V/P 407/I/Vol. dt. 29.11.2001 issued by the 2nd respondent.

APP
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