

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 154 OF 2009

Thursday, this the 14th day of January, 2010

CORAM:

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

HON'BLE Mr. K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER

Bikash Kumar Mondal
Apprentice Technician / Carriage & Wagon/SR
Nagercoil Junction/Trivandrum Division
Permanent address – Masiandapur, Tionamtakia
North 24 GPS, Habra, West Bengal ... **Applicant**

(By Advocate Mr. TCG Swamy)

versus

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

2. The Chief Personnel Officer
Southern Railway, Headquarters Office,
Park Town P.O., Chennai – 3

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

(By Advocate Mr. Thomas Mathew Nellimoottil)

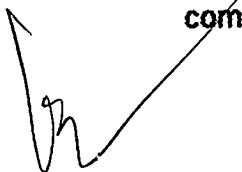
The application having been heard on 14.01.2010, the Tribunal
on the same day delivered the following:

O R D E R

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

The short question involved in this case is what should be the duration
of training admissible to the case of the applicant before his appointment.

2. The applicant was an aspirant to the post of Technician, Grade III
(Carriage and Wagon) for which the requisite qualifications are Course
completed Act Apprentice / ITI in (i) Automobile Engineering (ii) Diesel (iii)



Tractor Engineering (IV) Fitter. In addition it has been specifically mentioned that no other qualification including Diploma in Engineering will be accepted as an alternate qualification on the ground of being higher qualification in the same line of trade. The applicant was selected and issued with an offer of appointment vide Annexure A-2 order dated 05.11.2005 and on his acceptance of the said offer appointment order was issued vide Annexure A-3 dated 31.01.2006. Para 1 of Annexure A-3 states " he should serve the Railways for a minimum period of 5 years after completion of the prescribed training of three years." Para 4 of the offer also carries a recital. " You will be under training for a period of three years". The applicant attended the training and subsequently learned that the stipulation of three years of training was earlier admissible in the case of matriculates which was however deleted by an amendment vide Annexure A-5. The applicant has preferred a representation vide Annexure A-6. There has been no response to the same. In addition he had contacted the higher authorities in this regard, when he was informed that the authority competent to take a decision is the 2nd respondent from whom no communication was received. The applicant however, submitted representation to the CPO which was forwarded vide Annexure A-8. The matter was also taken up with the recognized unions vide Annexure A-9.

3. The applicant has also come to know that similarly situated person by name Shri Alagarsamy posted at Nagercoil Station with the same qualification as that of the applicant was directed to undergo a training only for six months and not three years,. As there is no response, the applicant has moved this Tribunal for a declaration and direction as hereunder :-

(i) Call for the records leading to the issue of Annexure A-2 and A-3 and quash the same to the extent they prescribe 3 (three) years training period from the date the applicant joined as an Apprentice Technician (C&W) (trainee Technician) i.e 1.2.2006;

- (ii) *Declare that the applicant's training period must be deemed to have been completed as on 31.7.2006 and declare further that the applicant must be deemed to have been appointed against a regular post of Technician Grade III (C&W) with effect from 1.8.2006;*
- (iii) *Direct the respondents to deem that the applicant has completed his training as Apprentice Technician (C&W) as on 31.07.2006 and direct further to treat the applicant as having been appointed against a regular post of Technician Grade III with effect from 1.8.2006 in scale Rs.3050-4590 (V CPC) – Revised Pay Band Rs.5200 – 20200 with a Grade Pay of Rs.1900/- and direct further to grant all consequential benefits arising there from.*

4. Respondents have contested the OA. Their contention is that the applicant accepted all the conditions stipulated in Annexure A-2 and underwent training also. The amendment to Para 159 (3) by the Railway Board vide RBE 184/06 dated 05.12.2006 (Annexure A-5) has been admitted by the respondents. As regards the case of Alagarsamy, there has been no specific denial. To save, that he was having a Diploma qualification and hence he was imparted training for six months only. The applicant cannot be compared with the case of Alagarsamy. Respondents have further stated that one Shri Veeresh similarly situated as the applicant underwent three years training who has now been transferred to South - Central Railway.

5. Counsel for applicant invited the attention of the Tribunal to the amendment vide Annexure R-1 (2) whereby the stipulation of matriculation as the qualification has been deleted. According to him, the logical corollary of deletion of qualification is corresponding deletion of training period meant for such matriculates. As such, the stipulation in 159(3) having been deleted, there is no scope for three years training. Counsel for Respondents did not deny the fact of 159 (3) (iv) having been deleted vide Annexure R-1 (2).



6. Arguments were heard and documents perused. The advertisement specifically prescribes the qualification specified therein and apart from it further stipulation was that no other qualification including Diploma in Engineering will be accepted as alternate qualification. Thus though Alagarsamy has the qualification of Diploma he cannot have been given the training for only six months purely on account of his having Diploma as qualification, since the said qualification is not recognized as per the advertisement. The applicant having the requisite qualifications and the stipulation of three years training for matriculates having been deleted, six months training alone would be possible. The balance of two years and six months training undergone by the applicant should therefore be considered as a part of his regular service for all purposes.

7. In view of the above, OA is allowed. It is declared that the applicant's training period is deemed to have been completed as on 31.07.2006 and that the period thereafter is considered as appointment against regular post of Technician, Grade III in the scale of pay of Rs.3050-4590 (under Vth Pay Commission) and revised Pay Band Rs.5200-20200 with Rs.1900/- as Grade Pay. If the applicant has been paid only stipend during this period from 01.08.2006 onwards, he is entitled to the pay in the above grade and as such he is entitled to the difference in pay. Respondents are directed to work out the same and make the payment to the applicant within four months from the date of communication of this order. The date of appointment of the applicant in the post of Technician, Grade III shall be reflected in the seniority list with effect from 01.08.2006. No costs.

Dated, the 14th January, 2010.



K GEORGE JOSEPH
ADMINISTRATIVE MEMBER
vs



Dr. K.B.S. RAJAN
JUDICIAL MEMBER