

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.16/04

Friday this the 4th day of February 2005

C O R A M :

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

T.P.Sreedharan,
S/o.Pachaw,
Ex-Casual Labourer, Southern Railway,
Palghat Division.
Residing at : Thattarapoyil House,
Kalpathor Post, Meppayur Via,
Calicut District.

Applicant

(By Advocate Mr.T.C.Govindaswamy)

Versus

1. Union of India represented by
the General Manager, Southern Railway,
Head Quarters Office, Park Town P.O.,
Chennai - 3.
2. The Divisional Personnel Officer,
Southern Railway, Palghat Division,
Palghat.
3. The Divisional Railway Manager,
Southern Railway, Palghat Division,
Palghat.

Respondents

(By Advocate Mr.Sunil Jose)

This application having been heard on 4th February 2005
the Tribunal on the same day delivered the following :


O R D E R

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

This application is directed against the order dated 16.10.2003 (Annexure A-7) of the 2nd respondent by which the applicant's representation for absorption on a Group D Post on the strength of his past casual service has been turned down on the ground that he having crossed the upper age limit of 43 years prescribed for OBC is not eligible for absorption in terms of Railway Board order. The applicant who commenced casual service on 4.1.1979 and retrenched on 5.4.1982 had on the whole 1099 days of casual service to his credit. However, his name was not there

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in the Live Register of the casual labourers. Coming to know of Annexure A-2 letter dated 12.3.2003 that the Railway Administration was considering retrenched casual labourers between Serial Nos.636 to 1395 in the Live Register against the vacancies of Trackman/Gangman the applicant approached the 2nd respondent but he was told that his name not being entered in the Live Register he would not be considered for absorption. The applicant submitted Annexure A-3 representation seeking consideration on the strength of his casual labour service for 1099 days. Finding no response to his representation the applicant filed O.A.559/03 which was disposed of as agreed to by the counsel on either side permitting the applicant to make a detailed representation with supporting documents and directing the 2nd respondent to consider and dispose of the same. It was in obedience to the above directions that Annexure A-7 was issued considering the representation submitted by the applicant. In the impugned order the fact that the applicant was a Ex-Casual Labour who had rendered 1099 days of casual service is not disputed. The applicant's claim for absorption is rejected on the ground that the upper age limit for OBC being 43 years the applicant whose date of birth was 1.3.1959 was not eligible for absorption. Aggrieved the applicant has filed this application. It has been alleged in the application that the respondents were bound to consider the applicant for absorption as they had reengaged and absorbed casual labourers who hardly had 600 days of casual service to their credit in 1997, 1998 & 1999 and that as the remaining vacancies now unfilled relate to 1999, 2000, 2001 & 2002, if the respondents would prepare year wise panel the applicant could come within the age limit and therefore it is not




just and proper on the part of the respondents to turn down the legitimate claim of the applicant on the ground that he has crossed the upper age limit.

2. The respondents in their reply statement contend that the applicant's name is not available in the Live Register of the casual labourers, that only the casual labourers whose names were there in the Live Register were to be considered for absorption, that as the applicant has crossed the age limit prescribed in the Railway Board's letter dated 20.9.2001 (Annexure R-2) rejection of the applicant's claim for absorption is perfectly in order, and therefore the Tribunal may not interfere. The respondents have also contended that gradation list of retrenched casual labourers was published on 13.2.1995 and merged list was published on 17.9.1996, and that the applicant who did not put forth his claim at the appropriate time cannot now be allowed to rake up a claim which is barred by limitation.

3. The applicant in its rejoinder has stated that he is not aware of the publication of the Live Register.

4. I have carefully gone through the materials placed on record and have heard the learned counsel on either side. That the applicant has crossed the upper age limit of 43 years prescribed in Annexure R-2 is not disputed. The Railway Board has taken a decision that the upper age limit for general candidates for absorption would be 40 years in relaxation of the normal rules, 43 years for OBC and 45 years for SC/ST. The applicant obviously has crossed the upper age limit. His name did not figure in the Live Register of the casual labourers which



was published in 1995 as also in 1996. The applicant did not care to get his name included in the Live Register. Learned counsel of the applicant argued that several casual labourers were re-engaged and absorbed in the year 1998 that the failure on the part of the respondents in not re-engaging and absorbing the applicant on par with them cannot be a reason to deny the legitimate claim of the applicant and therefore the respondents are bound to absorb the applicant on par with persons with lesser length of service. If casual labourers with lesser length of service had been re-engaged in the year 1998 the applicant should have challenged that and sought relief. The applicant who got retrenched in the year 1982 having not taken care to see that his name was included in the Live Register, and having not put forth any claim for reengagement or absorption when persons with lesser service than him in the year 1998 does not have a subsisting claim or grievance which can be taken cognizance of at this distance of time. Now the applicant has crossed the upper age limit for reengagement as casual labourers in terms of Annexure R-2 the respondents cannot be faulted for rejecting the applicant's claim.

5. In the result, finding no merit the application is dismissed leaving the parties to bear the costs.

(Dated the 4th day of February 2005)



A.V. HARIDASAN
VICE CHAIRMAN

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