

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA 1556/97 and OA 160/98

Wednesday the 16th day of August, 2000.

CORAM

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

OA No.1556/97

K.S.Krishnan
Son of Sivathanu Asary
Carriage & Wagon Khalasi Helper
Office of the Carriage & Wagon Superintendent
Southern Railway, Nagarcovil Junction.

Applicant.

By advocate Mr. T.C.Govindaswamy

Versus

1. The Union of India through the
General Manager, Southern Railway
Headquarters Office, Park Town P.O.
Madras-3.
2. The Divisional Railway Manager
Southern Railway, Trivandrum Division
Trivandrum-14.
3. The Senior Divisional Personnel Officer
Southern Railway, Trivandrum Division
Trivandrum-14.
4. A.Sunder Naik
Carriage & Wagon Khalasi Helper
Southern Railway, Alleppey
through the Divisional Personnel Officer
Southern Railway, Trivandrum Division
Trivandrum-14.
5. K.Kunjayappan
Carriage & Wagon Khalasi Helper
Southern Railway
Cochin Terminus, Cochin.
6. R.Radhakrishna Pillai
Carriage & Wagon Khalasi Helper
Southern Railway
Ernakulam Marshalling Yard.
7. K.Rajesh Kumar
Carriage & Wagon Khalasi Helper
Southern Railway
Nagarcovil Junction
presently Lab Attendant, Divisional
Mechanical Engineer, Diesel
Ernakulam Junction through the
Divisional Personnel Officer, Southern Railway
Trivandrum Division, Trivandrum.

8. G.Muraleedharan Pillai
Carriage & Wagon Khalasi Helper
Southern Railway
Trivandrum Central through the Divisional
Personnel Officer, Southern Railway
Trivandrum. Respondents.

By advocate Mr.Thomas Mathew Nellimoottil for R1-3.
M/s. Santhosh & Rajan for R4, 6 to 8.

OA No.160/98

1. S.Rajendran
S/o S.K.Sivaprakasan
Carriage & Wagon Khalasi Helper
Southern Railway
Cochin Harbour Terminus.
2. A. Madhavan
S/o late Appavu
Carriage & Wagon Khalasi Helper
Southern Railway
Trivandrum.

Applicants

By advocate Mr. T.C.Govindaswamy

Versus

1. The Union of India through the
General Manager, Southern Railway
Headquarters Office, Park Town P.O.
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2. The Divisional Railway Manager
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Ernakulam Junction through the
Divisional Personnel Officer, Southern Railway
Trivandrum Division, Trivandrum.

8. G.Muraleedharan Pillai
Carriage & Wagon Khalasi Helper
Southern Railway
Trivandrum Central through the Divisional
Personnel Officer, Southern Railway
Trivandrum.

Respondents.

By advocate Mrs. Sumathi Dandapani for R1 to 3.
 Mr. P. Santhosh Kumar for R4 & 6 to 8.

Both these applications having been heard together on
16th August, 2000, the Tribunal on the same day delivered this
common order:

O R D E R

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

The facts and question of law involved in both of
these OAs being similar, these two Original Applications are
being heard and disposed of by this common order.

2. The applicant in OA No.1556/97 and the two applicants
in OA No.160/98 are aggrieved that the impugned panel A-4 in
these OAs prepared on 29.10.97 for promotion to the post of
Carriage & Wagon Fitter Grade III from among Carriage & Wagon
Khalasi Helpers on the basis of their seniority towards 25%
vacancies reserved for serving employees has not been
prepared, according to the applicants, in accordance with the
instructions contained in P.B.Circular No.99/86. Applicants
in both the cases claim that they were qualified in the
written examination as also in the viva voce but were not
placed in the panel by the respondents, according to the
applicants, taking an erroneous method of preparing the panel
on the basis of merit alone without regard to seniority.
Representation submitted by the applicant in OA No.1556/97 was
turned down by the impugned order A-6 dated 14.11.97 informing
the applicant that

the panel for selection to the post of Skilled Artisan giving 25% quota is to be drawn on the basis of merit and that as the applicant did not come within the merit level, he could not be placed in the panel. Aggrieved, the applicants have filed these applications for seeking the similar reliefs of setting aside A-4, declaring that the panel of selected candidates for promotion to the post of skilled artisans in Carriage & Wagon Unit (Mechanical Department) against 25% vacancies reserved for serving employees is to be drawn up to the extent of vacancies purely as per seniority among the qualified persons and for directing the respondents to recast the panel and to grant the applicants consequential benefits.

3. Applicants have placed reliance on P.B. Circular No.99/86 where in paragraph 37 it has been stated that the panel should be drawn to the extent of vacancies purely as per the seniority among the qualified persons.

4. In OA No.160/98 the applicants have also taken the contention that the selection board was not properly constituted by the DRM and one member of the selection committee was lower in rank than required.

5. Respondents have filed a detailed reply statement resisting the claim of the applicants. It has been contended that as per the instructions contained in P.B.Circular No.28/92 (Annexure R-2), the final panel should be drawn on the basis of merit, i.e. on the basis of marks and after identifying the candidates to be included in the panel, their

names should be arranged in the order of seniority. Since the applicants in these two cases did not come within the number of vacancies on the basis of their performance in the written test, they could not be placed in the panel, contend the respondents.

6. We have heard the learned counsel on either side and perused the materials on record. Mr. Martin, learned counsel appearing on behalf of the counsel of the applicants drew our attention to Railway Board's circular No.23 of 1998 wherein it was laid down that as there was no uniform practice in the various zonal Railways it was decided that henceforth the panel is to be drawn on the basis of seniority of those who qualify. This circular was issued only on 2.2.98 and a reading of the same clearly indicates that the procedure laid down was to be followed thereafter. As the selection in these cases was conducted long before the date of issuance of the circular i.e. 2.2.98, the respondents cannot be faulted for following the instructions contained in P.B.Circular No.28 of 1992 (R-3). The contention of the applicants in OA No.160/98 that the selection board was not a properly constituted one also has no force in view of the fact that the respondents have in the reply statement clearly stated that the D.R.M. had constituted the committee as per the instructions contained in the Master Circular and the same has not been controverted by the applicant by filing a rejoinder.

In the result, in the light of what is stated above, both these applications are devoid of merit and are dismissed.

Parties are to bear their own costs.

Dated 16th August, 2000.

Sd/-
(G.RAMAKRISHNAN)
ADMINISTRATIVE MEMBER

Sd/-
(A.V.HARIDASAN)
VICE CHAIRMAN

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Annexures referred to in this order

- A-4: True copy of the letter No.V/P 98-IV/DPSE/Vol.V dated 29.10.97 issued by the third respondent.
- A-6: True copy of the letter No.V/P 98/IV/SA-CON/97 dated 14.11.97 issued by the 2nd respondent.
- R-2: True copy of letter No.J/P.98/P of 5.10.88 issued by the Divisional Personnel Officer, Southern Railway, Palghat.
- R-3: True copy of P.B.Circular No.28/92.