

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.162/2005.

Friday this the 2nd day of September, 2005.

CORAM:

**HON'BLE MR. K.V.SACHIDANANDAN, JUDICIAL MEMBER
HON'BLE MR. N.RAMAKRISHNAN, ADMINISTRATIVE MEMBER**

1. Mathew K.B.,
Kaithakalam, Avalukunnu P.O.,
Alappuzha.
2. Suni P.S., Pallimachal House,
Cheroor P.O., Trissur-6.
3. Anoop K., Sreekripa, Kunnathully House,
Puzhakkal P.O., Muthuvara, Trissur.
4. Renjith Manohar Das,
Aswathy, T.C.36/37, Manava Nagar-86.
Palkulangara, Trivandrum. Applicants

(By Advocate Shri Thomas Abraham)

Vs.

1. Union of India, Ministry of Railway,
Government of India, New Delhi,
represented by its Secretary
2. Railway Board, New Delhi, represented
by its Secretary.
3. Southern Railway, Park Town,
Chennai represented by its General Manager.
4. Railway Sports Promotion Board, Railway Bhavan,
New Delhi represented by its Secretary,
5. The President, Southern Railway Sports Association,
Park Town, Chennai.
6. Senior Personnel Officer (Sports),
Southern Railway, Sports Association,
Headquarters Office, Park Town, Chennai. Respondents

(By Advocate Smt. Sumathi Dandapani)

The application having been heard on 2.9.2005, the Tribunal on the same day delivered the following:

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ORDER (Oral)

HON'BLE MR. K.V.SACHIDANANDAN, JUDICIAL MEMBER

The applicants, 4 in number, are power-lifting champions. They are challenging Annexure A-8 notification dated 8.1.2005 issued by the respondents calling for applications for filling up the Group 'C' and 'D' posts in the Railways under the Sports Quota. It is averred in the O.A. that, Annexure A-8 was issued with malafide intention to fill up the vacancies under sports quota and thus the benefits of A-6 judgment were denied to the applicants. The applicants are sportsmen who have made meritorious achievements in the branch of power-lifting and all of them became champions in various National Level Competitions. Upon getting information regarding the decision of the Railway Authorities for recruitment of power lifters through Talent Scouting Scheme, several persons including the applicants submitted applications for 'C' Group and 'D' Group posts. Since they were not selected, they have filed this O.A. seeking a direction to the respondents to keep 3 'C' Group and 1 'D' Group vacancies under sports quota unfilled, till the respondents take a final decision regarding the employment of the applicants in the Railways under the sports quota, in compliance with the directions of this Hon'ble Tribunal contained in Annexure A-6 order.

2. The respondents have filed a counsel statement contending that, the notification is for recruitment from open market under the Sports quota, and separate quota is earmarked for Talent Scouting. Open advertisement was made by the notification (A8) to fill up the vacancies in the Sports quota. The applicants who claim appointment under the Talent Scouting Scheme, cannot have any grievance against the same. A perusal of A8 makes it clear that, the discipline of power-lifting, against which the applicants aspire to be appointed, is not included in the notification. For this reason also, the applicants cannot have any grievance. Since the matter has been settled in O.A.687/03 of this Tribunal, and by the appellate order of the Hon'ble High Court, there is nothing to adjudicate the matter again and therefore, this O.A. is to be dismissed.

3. When the matter came up before the Bench for hearing on 31.8.2005 on behalf of the counsel for applicants an adjournment was sought. Today also none appeared for the applicants. However, since the matter has already been settled by judicial pronouncements of the Hon'ble High Court, we dispose of this matter on merit.

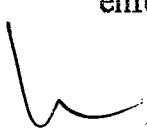


4. Mrs.Sumathi Dandapani, learned counsel appeared for the respondents.

5. We have heard the counsel for respondents. Learned counsel for the respondents submitted that, in earlier occasions, the applicants had approached this Tribunal in O.A.431/02 and O.A.687/03 seeking the same reliefs. vide Annexure A-2 order dated 25.2.2003 in O.A.431/02, this Court has directed the Ist respondent to consider the representation submitted by the applicants, and in furtherance of that, the respondents have passed an order (Annexure A-3) rejecting the claim of the applicants. Again the applicants approached this Tribunal in O.A.687/03 seeking the same reliefs, and vide Annexure A-6 order dated 15.10.2004 this Tribunal passed an order setting aside the impugned order (A7 in that O.A.), and directed the respondents to call the applicants to a trial, supervised by a recognised expert in the field and test them against the benchmark obtained from the immediately preceding recruitment of Power Lifters into the Railways, determine their suitability on par, and if found suitable, consider their appointment to the posts matching to their qualification. This Tribunal has also directed that, the entire process from testing by trial to issue of appointment orders or rejection on the ground of unsuitability, must be completed within three months. Therefore, the respondents has taken the matter before the Hon'ble High Court of Kerala in W.P.(C) No.2142/2005(S) dated 17.6.2005 and the Hon'ble High Court has set aside the orders of the Tribunal and observed as follows:

"13. Power Lifting was one of the 28 disciplines and it could not have been possible for any Zonal Railway to patronize all the 28 disciplines. As submitted by the petitioners, it was the policy to confine the selection to a few sports items. Also it is within their purview to take a decision that Power Lifting need not be included as one to be patronized. Even on the admission of the applicants, relaxation of age was necessary for them even in 1998. This leads to a presumption that after seven years the position had worsened. As Mr.Cherien points out, proficiency alone was the criterion for selection and at their advanced age for a reasonable duration of time they could not have been usefully employed and the direction for subjecting the said persons for a selection was bereft of logic.

14. If the direction of the Tribunal is implemented, it would lead to a position that over aged candidates are to be subjected to a selection overlooking the quota prescribed by the Railway Board, and have to be accommodated in respect of a discipline with which the Southern Railway has no intention to patronize. All of them would be well beyond the prescribed age limit for appointment. Further, it cannot but be stated that there were no latches, since after December, 1998 the applicants had not agitated over the issue obviously because they had no legal strength for enforcing an appointment. The selection which was made the subject matter



of challenge was the one held on the basis of the Railway Board's order and for the year 2000-2001. On the credentials of their proficiency shown during the years 1995 and 1996, the applicants did not come within the norms for selection. Their claims would have interfered with the rights of third parties, who were also not made parties to the proceedings. The direction, therefore, ought not have been made. It does not therefore, appear to be necessary to advert to decisions cited at the bar, as facts of such cases were totally different.

15. In the aforesaid circumstances, we do not think it is necessary to go into further details. We are constrained to hold that the direction of the Tribunal was in excess of the jurisdiction vested in it. "

6. This O.A. was filed again for the same relief before the disposal of the Writ Petition No.2142/2005. They have considered the entire aspects. Accordingly, we are of the considered view that the matter has been settled once for all by the decision of the Hon'ble High Court of Kerala in WP(C)2142/2005 and nothing subsists more. In the circumstances the O.A. does not merit.

7. Accordingly, the O.A. is dismissed. No order as to costs.

Dated the 2nd September 2005.



N.RAMAKRISHNAN
ADMINISTRATIVE MEMBER



K.V.SACHIDANANDAN
JUDICIAL MEMBER