

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A.No.19 of 1994

Friday this the 7th day of January, 1994

CORAM

The Hon'ble Mr. Justice Chettur Sankaran Nair, Vice Chairman

The Hon'ble Mr. P. V. Venkatakrishnan, Administrative Member

K. Shanmughan  
Electrical Fitter/Training  
Lighting HS I, Cochin  
Harbour Terminus, Cochin-3. ....Applicant

(By Advocate Mr. P. K. Madhusoodhanan)

Vs.

1. The Electrical Foreman, S.Railway,  
Cochin Harbour Terminus, Kochi-3.
2. The Divl. Personnel Officer,  
Southern Railway, Trivandrum.
3. The Divl. Railway Manager,  
Southern Railway, Trivandrum.
4. Union of India represented by  
its Secretary, Ministry of  
Railways, Rail Bhavan, N.Delhi. ....Respondents

(By Advocate Mr. Thomas Mathew Nellimootil)

ORDER

CHETTUR SANKARAN NAIR(J), VICE CHAIRMAN.

Applicant seeks to quash Annexure A10 order and seeks a declaration that he is eligible to receive a 1st Class privilege pass with effect from 1.1.92. ....  
2. He commenced service as a casual employee on 15.5.69 and attained temporary status on 15.11.69 and his services were regularised on 7.6.71. On an earlier occasion this Tribunal directed the competent authority to consider whether period of casual service can also be reckoned in counting the period of eligibility for a pass. After such consideration by Annexure A10

respondents found that he was not eligible as his regular service commenced only after 1.8.69, and as only regular service can be reckoned. For those who commenced service after 1.8.69 their eligibility for a 1st Class pass would arise only when they draw the salary of Rs.1680/- in a scale that runs upto Rs.2200/- or beyond. On 1.1.92 admittedly applicant was not drawing a salary of Rs-1680/-.

3. According to applicant because he entered service prior to 1.8.69 and the earlier rule would govern his case he would be entitled to receive a 1st Class pass. The crux of the matter is whether applicant had entered 'service of Railways' prior to 1.8.69 or later. The Pass Rules 1986 issued under Article 309 of the Constitution of India and paragraph 43, Chapter I of the Indian Railway Establishment Code, Vol. I conveys the impression that casual service cannot be considered as 'Railway Service'. Hence applicant entered 'Railway Service' only after 1.8.69. Therefore, the view taken in Annexure A10 that his casual service was not liable to be reckoned as service for purpose of grant of a pass cannot be considered unreasonable.

4. Even if a different view is possible on the facts, it is not possible to say that the view taken in Annexure A10 is unreasonable. This Tribunal does not act as an appellate body on facts and judicial review will be justified only if the finding is vitiated by an error apparent on the face of the record or procedural

irregularities, or if the view is so unreasonable. It does not become unreasonable because another view is possible. The view in Annexure A10 is not vitiated by any error apparent on the face of record.

5. For the aforesaid reasons, we find no merit in the application and we dismiss the same. No costs.

Dated the 7th day of January, 1994.

  
P.V. VENKATAKRISHNAN  
ADM IN ISTRATIVE MEMBER

  
CHETTUR SANKARAN NAIR(J)  
VICE CHAIRMAN

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