

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Monday the 23rd day of November 1998.

CORAM

OA 192/98

HON'BLE MR A.M. SIVADAS, JUDICIAL MEMBER

P.J. Varghese
S/o Joseph
Panakal House
Avanancode
Chowara

...Applicant

(By advocate Mr P.Ramakrishnan)

Versus

1. Union of India represented by the
General Manager, Southern Railway
Chennai.
2. The Senior Divisional Personnel Officer
Southern Railway, Trivandrum. ...Respondents.

(By advocate Mrs Sumathy Dandapani)

The application having been heard on 23rd November 1998, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR A.M. SIVADAS, JUDICIAL MEMBER

Applicant seeks to declare that Annexure A-2 is bad in law, to direct the respondents to re-engage him as per Annexure A-1 order of this Bench of the Tribunal without insisting on production of casual labour card and also to direct the second respondent to issue him a certificate in respect of the casual service rendered by him.

2. On 4.8.98, it was submitted by the learned counsel for the respondents that the applicant was re-engaged. Learned counsel for the applicant relying on A-1 order submitted on that date that the applicant is to be re-engaged from the date of Purushan's engagement. In the statement filed by the respondents, it is stated that the applicant has been engaged w.e.f. 3.8.98.

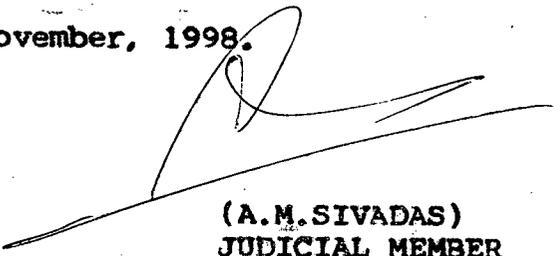
3. According to the respondents, the applicant cannot be given re-engagement with effect from the date of Purushan's engagement for the reason that he had been evading situation of appearing for the medical examination apprehending that he may not be fitting in any medical classification.

4. It is submitted in the statement filed by the respondents that the applicant was found fit in C-1 & C-2. As per A-1, the direction was to re-engage the applicant with effect from the date of Purushan's engagement if the applicant is otherwise suitable and fit for re-engagement in any medical category of B-2, C-1 and C-2. Four months' time was granted to the respondents to comply with the said direction. Within the said period of 4 months, the respondents have not issued any order or notice or memo to the applicant to make himself available for medical examination on any date. Learned counsel appearing for the respondents submitted that casual labour card is the basic document for identification of the person concerned and the applicant was not having the casual labour card with him. Within the time stipulated in A-1, there was no direction to produce the casual labour card of the applicant issued by the respondents. It is only as per A-2 dated 12.5.97 the respondents directed the applicant to report before the Senior Divisional Personnel Officer's office at Trivandrum with documents including the casual labour card. There is absolutely no reason stated for the long delay of about 3 years from the date of A-1 order. An order like A-2 could have been very well issued by the respondents within 4 months from the date of A-1 order. Subsequent to the filing of this OA, the identify of the applicant has been

well established and admittedly he has been re-engaged. The same could have been done earlier if the respondents had taken due interest and care in the matter. It is not a case of the applicant evading the situation of appearing for the medical examination. It is a case of the respondents not calling him to appear for the medical examination. The delay has been caused by the respondents. For the delay caused by the respondents, the applicant cannot be found fault with. That being so, the applicant is entitled to be engaged with effect from the date of Purushan's engagement. As admittedly the applicant has been re-engaged only with effect from the date of 3.8.98, the respondents are directed to treat the applicant having been re-engaged with effect from the date of Purushan's engagement with all consequential benefits.

5. O.A. is disposed of as above.

Dated, 23rd November, 1998.



(A.M. SIVADAS)
JUDICIAL MEMBER

aa.

LIST OF ANNEXURES

1. Annexure A-1 : True copy of order dated 22-6-94 in OA 489/93 of Central Administrative Tribunal, Ernakulam.
2. Annexure A-2 : True copy of letter No.V/P.407/I/Engagement of CLS/Vol.III dt. 12-5-97 issued by the 2nd respondent.

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