

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 193 of 2002

Friday, this the 18th day of June, 2004

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. S.K. HAJRA, ADMINISTRATIVE MEMBER

1. K. Durairaj,
S/o Karuppaiah Pillai,
Senior Gangman, Southern Railway, Thenmala,
Residing at: Railway Quarters No.6-F,
Thenmala Railway Station,
Kollam District, Kerala.Applicant

[By Advocate Mr. T.C. Govindaswamy]

Versus

1. Union of India represented by the
General Manager, Southern Railway,
Head Quarters Office, Park Town PO,
Chennai-3
2. The Chief Personnel Officer,
Southern Railway, Head Quarters Office,
Park Town PO, Chennai-3
3. The Divisional Personnel Officer,
Southern Railway, Madurai Division,
Madurai.
4. The Divisional Railway Manager,
Southern Railway, Madurai Division,
Madurai.Respondents

[By Advocate Mr. P. Haridas]

The application having been heard on 18-6-2004, the
Tribunal on the same day delivered the following:

O R D E R

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

The applicant commenced service as a Boy Khalasi on 25-11-1968. He attained the age of 18 years on 8-3-1970. While his services from 8-3-1970 ought to have been considered for grant of temporary status and other service benefits, the applicant's service from 20-8-1972 alone was considered for the purpose of grant of temporary status. The applicant was

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regularized in service in the year 1984 as Gangman. The applicant filed OA.No.773/98 as also OA.No.70/99 claiming preponement of the date of grant of temporary status with consequential benefits. OA.No.70/99 was disposed of with the following directions:-


"... the applicant's casual service from 8.3.70 onwards has to be taken into account for the purpose of grant of temporary status and for other service benefits. The first respondent is directed to issue orders fixing the date of temporary status of the applicant, treating that the applicant has attained the age of 18 years and ceased to be a Boy Khalasi with effect from 8.3.70 onwards. Relevant orders as aforesaid shall be issued within a period of three months from the date of receipt of copy of this order."

2. In obedience to the above direction Annexure A1 order was issued preponing the date of grant of temporary status of the applicant to 27-3-1972. Annexure A3 order was issued consequently refixing the applicant's pay. Claiming that the applicant as a consequence of the preponement of the date of temporary status was entitled to earlier regularization, the applicant submitted Annexure A4 representation, which was not considered and disposed of. Therefore, the applicant has filed this application for a declaration that non-feasance on the part of the respondents to consider the entire service from 8.3.1970 to 20.8.1972 for the purpose of regularization and for granting of the consequential benefits thereof is arbitrary, discriminatory and unconstitutional and for a direction to the respondents to consider the applicant's service from 8.3.1970 to 20.8.1972 for the purpose of regularization and to grant the applicant all consequential benefits flowing therefrom within a time limit.

3. Respondents resist the claim of the applicant. It has been contended that the settled position of seniority cannot be

unsettled after a long time and that the judgement of the Tribunal in OA.No.70/99 has been fully complied with the applicant is not entitled to any further relief.

4. We have heard the learned counsel on either side and have perused the pleadings and materials placed on record. The case of the applicant appears to be that certain persons with lesser length of service than the applicant had been empanelled and appointed on 26-2-1980 and had the applicant's antedated temporary status has been properly considered, he would have been eligible for regularization prior to them. As stated in the application, persons who had lesser length of services than the applicant were regularized against the vacancies of the year 1979 in the year 1980 and the applicant was regularized only in the year 1984. If the applicant had any grievance in not regularising his services on a Group D post while casual labourers who had lesser length of service than him were regularised in the year 1980, he should have agitated that issue immediately thereafter. The grievance of the applicant arose in the year 1980 and therefore, it did not come within the purview of the Administrative Tribunals Act because the Tribunal does not have jurisdiction to entertain applications in regard to the grievances which arose more than three years prior to the commencement of the Administrative Tribunals Act. The applicant having not challenged his non-regularisation in the year 1980 at this distance of time, he is not entitled to rake up the issue after two decades. The claim is barred by limitation also. The applicant in OA.No.70/99 claimed preponement of the . He had not claimed earlier regularisation or seniority above persons appointed earlier. That OA was disposed of directing the respondents to grant the benefits. Consequential orders have been issued preponing the date of temporary status of the applicant and refixing the pay of the



applicant which is the immediate consequence of antedating of temporary status. It is not possible at this distance of time to antedate the regular appointment of the applicant as a Gangman, which would amount to unsettling the seniority which has been settled more than two decades ago.

5. In the light of what is stated above, finding no merit we dismiss the Original Application leaving the parties to bear their respective costs.

Friday, this the 18th day of June, 2004


S.K. HAJRA
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

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