

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A. No. 201 of 1998.

Monday this the 19th day of April, 1999.

CORAM:

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

K. Rajendran Nair,  
S/o Late P.K. Kesava Pillai,  
Retired Records Sorter, Southern  
Railway, Office of the Deputy  
Chief Engineer, Construction,  
Ernakulam Junction, residing at:  
'Viraj', Kallelil Sadrisya,  
Poonthoppe Ward, Avalakunnu P.O.,  
Alleppey District.

.. Applicant

(By Advocate Shri T.C. Govindaswamy)

Vs.

1. Union of India represented by the  
General Manager, Southern Railway,  
Headquarters Office, Parktown, P.O.,  
Madras - 3.

2. The Chief Engineer, Construction,  
Southern Railway, Egmore, Madras-8.

3. The Divisional Railway Manager,  
Southern Railway, Palghat Division,  
Palghat.

.. Respondents

(By Advocate Shri Mathews J Nedumpara)

The application having been heard on 19th April, 1999,  
the Tribunal on the same day delivered the following:

O R D E R

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

The applicant seeks to declare that he is entitled to  
count whole of his services for the period from 16.7.1963 to  
31.1.1997 as qualifying for pension and other retirement  
benefits or in the alternative to declare that he is entitled  
to count 50% of his casual labour service for the period from  
16.9.63 to 1.4.73 as qualifying for pensionary benefits and  
direct the respondents to revise, recalculate and pay his  
pension and other retirement benefits in terms of the  
declaration.

2. The applicant joined the service of the respondents as a Casual Labourer on 28.6.1962 in the Construction Organisation of the Railways. While working so, with effect from 16.3.1963 he was posted as Casual Labourer Lascar against the post of Lascar in the scale of pay of Rs.70-85. He was finally regularised as Lascar with effect from 1.4.1973, against a Construction reserve post under the second respondent. He continued thus and retired from service on 31.1.1997. He is aggrieved by the non-feasance on the part of the respondents in reckoning his service for the period from 28.12.1962. He is liable to be treated as temporary with effect from 28.12.62. Non-reckoning of his service for the period from 28.12.1962 to 1.4.1973 is arbitrary and unconstitutional.

3. In the reply statement filed by respondents 1 and 2, it is contended that there are only two categories of casual labourers i.e. Open Line Casual Labourers and Project Casual Labourers. All Casual Labourers engaged in the Construction Wing are Project Casual Labourers. The applicant is claiming qualifying service from 1963 onwards during which period he was only a Project Casual Labourer. In the light of the ruling in Union of India and others Vs. K.G. Radhakrishna Panicker and others Project casual Labour service from 16.7.63 to 31.3.73 is not liable to be counted for pensionary benefits.

4. In the reply statement filed by the third respondent, it is admitted that A-3 to A-18 show that the applicant was working under the Construction Organisation in various projects under the Executive Engineer, West Coastline, Salem and other units.

5. The applicant is relying on A-3 to A-18 in support of his case that he was engaged in the Construction Organisation.

It is practically admitted by the third respondent. From A-3 to A-18 it is seen that the applicant was working as a Casual Labourer in the Construction Organisation of the Southern Railway.

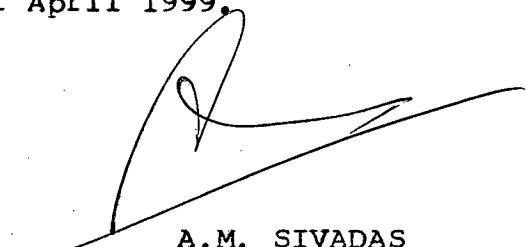
6. As far as the other contentions raised by the respondents are concerned, identical questions were considered by this Bench of the Tribunal in O.A. 880/97. Facts are identical in this O.A. and O.A. 880/97.

7. The ruling relied upon by the respondents in Radhakrishna Panicker's case (JT 1998 (3) SC 680) has been distinguished in the order passed in O.A. 880/97.

8. Based on the order passed in O.A. 880/97, the applicant is entitled to the alternative reliefs claimed.

9. Accordingly, the O.A. is allowed declaring that the applicant is entitled to reckon 50% of the Casual Labour Service rendered by him from 16.9.1963 to 1.4.1973 as qualifying service for pensionary benefits and the respondents are directed to recalculate, revise and pay the pensionary and other retiral benefits to him within six months from today. No costs.

Dated this the 19th day of April 1999.



A.M. SIVADAS  
JUDICIAL MEMBER

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LIST OF ANNEXURES REFERRED TO IN THE ORDER

1. Annexure A-3:

True copy of the Office Order No.WCL/SA/35/63 issued by the Executive Engineer, West Coast Line dated 15.3.63.

2. Annexure A-4:

True copy of the Office Order No.WCL/SA/58/64 issued by the Executive Engineer, West Coast Line, Salem dated 27.4.64.

3. Annexure A-5:

True copy of the Office Order No.WCL/SA/10/55 issued by the Executive Engineer, West Coast Line, Salem dated 6.2.63.

4. Annexure A-6:

True copy of the Office Order No.WCL/SA/59/65 issued by the Executive Engineer, West Coast Line, Salem dated 31.5.65.

5. Annexure A-7:

True copy of the Office Order No.WCL/SA/12/66 of 24.3.1966 issued by the Executive Engineer, Salem.

6. Annexure A-8:

True copy of the O.O. No. P.407 WCL/SA dated 20.12.66 issued by the Executive Engineer, Salem.

7. Annexure A-9:

True copy of the No. 3/7 dated 22.8.67 issued by the Chief Engineer.

8. Annexure A-10:

True copy of the Memo No.P. 407/WCL/SA dated 24.8.67 issued by the Executive Engineer, West Coast Line, Salem.

9. Annexure A-11:

True copy of the Memo No. 407/1/DG dated 28.8.67 issued by the Executive Engineer, Survey, Dindigal.

10. Annexure A-12:

True copy of the O.O. No. DG/19/67 dated 15.12.67 issued by the Executive Engineer, Survey, Dindigal.

11. Annexure A-13:

True copy of the Memo No.P.407/1/1/CN dated 9.2.68 issued by the Chief Engineer, Construction.

12. Annexure A-14:

True copy of the O.O. No. 538 dated 17/19/4/1968 issued by the Chief Engineer, Construction.

13. Annexure A-15:

True copy of the O.O. No.DG/11/68 of 29.2.68 issued by the Executive Engineer, Salem.

14. Annexure A-16:

True copy of the O.O. No.P.407/WCL/SA issued by the Executive Engineer, Salem dated 4.3.68.

15. Annexure A-17:

True copy of the O.O. No.WCL/SA/68 of 18.3.68 issued by the Executive Engineer, Salem.

16. Annexure A-18:

True copy of the O.O. No. WCL/SA/57/6/71 dated 21.6.71 issued by the Executive Engineer, Salem.