

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH
ERNAKULAM

DATE OF DECISION

27th FEBRUARY, 1990

PRESENT.

Hon'ble Shri S.P.Mukerji, Vice Chairman
&
Hon'ble Shri A.V.Haridasan, Judicial Member

ORIGINAL APPLICATION No.231/89

A.P. Hassan Kutty
V.P.Koyanni

.. Applicants

Vs.

1. Union of India represented
by the General Manager,
Southern Railway, Madras.
2. Divisional Personnel Officer,
Southern Railway, Trivandrum.
3. Executive Engineer,
Southern Railway, Ernakulam.
4. Bridge Inspector,
Southern Railway, Ernakulam. .. Respondents

Counsel for the applicants .. M/s K.Ramakumar, VR
Ramachandran Nair & Roy
Abraham.

Counsel for the respondents .. Mrs. Sumati Dandapani
Rly.Counsel.

ORDER

(Hon'ble Shri S.P.Mukerji, Vice Chairman)

We have heard the arguments of the learned
counsel for both the parties on the application wherein
the applicants who have been working as Casual Moplah
Khalasi in the Skilled Artisan grade of Rs.950-1500.
have protested against their being empanelled and
absorbed as a regular Gangman in the Unskilled lower
grade of Rs. 775-1025. The learned counsel for the
respondents indicated that in view of the earlier decisions

taken by the Tribunal, the respondents would not like to file any counter affidavit in this case. This Tribunal in similar cases on the basis of the Counter Affidavit filed by the respondents has been taking the view that if a Casual Worker in skilled or semi-skilled higher category does not wish to be absorbed in the unskilled lower grade of Gangman but ^{likes to} continue to stay where he is, facing the risk of retrenchment in accordance with law, he cannot be forced to join as regular Gangman. The learned counsel for the respondents indicated in this case also that the respondents will have no objection to their being continued in the present category as Casual Workers provided they express their unwillingness to be absorbed as Gangman in writing and are prepared to face retrenchment in accordance with law.

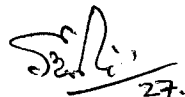
2. In the conspectus of facts and circumstances as indicated above, we allow this application, setting aside the impugned order dated 30.3.1989 in so far as the applicants are concerned with the direction that the filing of this application before this Tribunal should be taken as the applicants' unwillingness to be

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absorbed as Gangman. The respondents are directed to retain the applicants in their present grade as Casual Labourer with the clear understanding that the applicants will be subjected to being retrenched in accordance with law, if they have to be retrenched before their regularisation in their own category. There will be no order as to costs.



(A.V. HARIDASAN)
JUDICIAL MEMBER



(S.P. MUKERJI)
VICE CHAIRMAN

27.02.90

Ksn.