A

# CENTRAL ADMINISTRATIVE TRIBUNAL
# ERNAKULAM BENCH

**O.A. Nos. 271/06, 179/04, 180/04, 915/04, 793/05, 804/05, 869/05 248/06, 272/06, 334/06 335/06, 336/06, 352/06, 353/06, 424/06, 514/06, 553/06, 613/06, 614/06,**

**WEDNESDAY, THIS THE 14 th DAY OF MARCH, 2007**

**C O R A M :**

**HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN**

**O.A.No.271/06**

1. A.Sasidharan,
S/o.Arumugham Pillai,
Kalathu Veedu, Brammapuram,
Kumarakovil P.O., Kanyakumari Distt.
Ex-casual Labourer, Southern Railway,
Trivandrum Division.

2. A.Devadhas,
S/o.Subaiah Nadar, Karumbattu,
Swamy Thoppu P.O., Kanyakumari Distt.
Ex-casual Labourer, Southern Railway,
Trivandrum Division.

3. M.Krishna Prasad,
S/o.Madhavan Pillai,
Mela Veedu, Pada Nilam,
Pacode P.O., Kanyakumari Distt.
Ex-casual Labourer, Southern Railway,
Trivandrum Division.

4. R.Thiruvazhimarban,
S/o.Ramaswamy Kouar,
Near Park, Thirupathisaram P.O.,
Kanyakumari Distt.
Ex-casual Labourer, Southern Railway,
Trivandrum Division.

5. M.Charles,
S/o.Madhavadian,
Orupanai Nintra Vilai,
Poottetti P.O., Kanyakumari Distt.
Ex-casual Labourer, Southern Railway,
Trivandrum Division.

6. T.Yesudhasan,
S/o.Thavamani Nadar,
Poojapura Vilai, Agasteeswaram P.O.,
Kanyakumari Distt.
Ex-casual Labourer, Southern Railway,
Trivandrum Division.

7. S.Mariyadhas,
S/o.Stansilas, No.4/123,
Udayar Vilai, Kattuvilai,
Colachal P.O., Kanyakumari Distt.
Ex-casual Labourer, Southern Railway,
Trivandrum Division.

8. P.Bhuvananchandran,
S/o.Parameswaran Pillai,
Manjathottathuvilai Veedu,
Parakunnu, Vanmivur P.O.,
Kanyakumari Distt.
Ex-casual Labourer, Southern Railway,
Trivandrum Division.

9. G.Vijayan,
S/o.Ganapathi Asari,
Thakkaveedu Vilai,
Puthanveedu, Pacode P.O,
Kanyakumari Distt.
Ex-casual Labourer, Southern Railway,
Trivandrum Division.

10. C.Pandian,
S/o.Chithambara Nadar,
Murunkavilai, Rajakkamangalam P.O.,
Kanyakumari Distt.
Ex-casual Labourer, Southern Railway,
Trivandrum Division.

11. R.Balakrishnan,
S/o.Ramayaan, Sukumari Bhavanam
(Outside Fort), Padmanabhapuram
Thackalay P.O., Kanyakumari Distt.
Ex-casual Labourer, Southern Railway,
Trivandrum Division.

12. A.Mariya George,
S/o.Anthony Muthu,
Sirayan Vilai, Konamcadu, Kanyakumari Distt.
Ex-casual Labourer, Southern Railway,
Trivandrum Division.

13. M.Rajendran,
S/o.Muthuswamy Nadar,

Sri Rudra, Ambalathu Vilai,
Kazhuvanthattai, Kuzhithura PO,
Kanyakumari Distt.
Ex-casual Labourer, Southern Railway,
Trivandrum Division.

14. T.Sivasankaran,
S/o.G Thankappan,
No.15/17/A, Thanu Malayan Nagar,
Sucheendran PO, Kanyakumari Distt.
Ex-casual Labourer, Southern Railway,
Trivandrum Division.

15. R.Maharaja Pillai,
S/o.Ranganathan Pillai,
No.16, East Street, Police Station Road,
Krishnan Kovil, Nagercoil, Kanyakumari Distt.
Ex-casual Labourer, Southern Railway,
Trivandrum Division.

16. A.Tinnavanam,
S/o.Arunachala Thevar,
Nambiswamy Coil Street,
Seithunkanallur PO, Tuticorn Distt.
Ex-casual Labourer, Southern Railway,
Trivandrum Division.

17. R.Krishna Paul,
S/o.Ramaswamy Nadar,
Vellamadi Friday Market PO,
Kanyakumari Distt.
Ex-casual Labourer, Southern Railway,
Trivandrum Division.

18. G.Sunder Rajan,
S/o.Gnasigamony,
Pandaravilai Kaviyallur,
Kattathuri PO, Kanyakumari Distt.
Ex-casual Labourer, Southern Railway,
Trivandrum Division.

19. R.Suresh Lal,
S/o.Rajamony,
No.99/7-1, Nesavalar Colony,
Vetturnimadom PO, Nagercoil.
Ex-casual Labourer, Southern Railway,
Trivandrum Division.

20. K.Authinarayanan,
S/o.Kutti Nadar, Nariyan Vilai,
Augustheeswaram PO, Kanyakumari Distt.
Ex-casual Labourer, Southern Railway,
Trivandrum Division.

21. S.Chellathurai,
S/o.Sivalinga Nadar,
Ponnar Pillai, Augustheeswaram PO,
Kanyakumari Distt.
Ex-casual Labourer, Southern Railway,
Trivandrum Division. ...Applicants

(By Advocate Mr.T.C.Govindaswamy)

**Versus**

1. Union of India represented by the General Manager,
Southern Railway, Headquarters Office,
Park Town PO, Chennai – 3.

2. The Chief Personnel Officer,
Southern Railway, Headquarters Office,
Part Town PO, Chennai – 3.

3. The Divisional Railway Manager,
Southern Railway, Trivandrum Division,
Trivandrum – 14.

4. The Senior Divisional Personnel Officer,
Southern Railway, Trivandrum Division,
Trivandrum – 14. ...Respondents

(By Advocate Mrs.Sumathi Dandapani,Sr. & Ms.PK Nandini)

**O.A.179/04**

Balakrishnan Nair.K.,
Ex-Casual Labourer,
Southern Railway, Thiruvananthapuram.
Residing at Ushas, Kolpparakkonam, Amachal PO,
Kattakada, Thiruvananthapuram – 695 572. ...Applicant

(By Advocate M/s.P.C.Haridas & P.M.Joseph)

**Versus**

1. Union of India represented by General Manager,
Southern Railway, Headquarters Office,
Park Town PO, Chennai – 3.

2. Senior Divisional Personnel Officer,
Southern Railway, Thiruvananthapuram Division,
Thiruvananthapuram.

3. Chairman,
Railway Board,
Railway Bhavan, New Delhi. ...Respondents

(By Advocate Mr.P.Haridas)

**O.A.No.180/04**

D.Gireesan Nair,
Ex-Casual Labourer,
Southern Railway, Thiruvananthapuram.
Residing at Padmanabha Mandiram,
Erayancodu, Kandala P.O., Kovalassery (Via),
Thiruvananthapuram. ...Applicant

(By Advocate M/s.P.C.Haridas & P.M.Joseph)

**Versus**

1. Union of India represented by General Manager,
**Southern Railway, Headquarters Office,**
Park Town PO, Chennai – 3.

2. Senior Divisional Personnel Officer,
Southern Railway, Thiruvananthapuram Division,
Thiruvananthapuram.

3. Chairman,
Railway Board,
Railway Bhavan. New Delhi. ...Respondents

(By Advocate Mr.Thomas Mathew Nellimoottil)

**O.A.No.915/04**

K.Pavithran,
S/o.A.Kuttan,
Ex-Casual Labourer, Southern Railway.
Residing at Ratnavilas, Fernhill Post,
Udagamandalam, Nilgiris District, Tamilnadu. ...Applicant

(By Advocate Mr.T.C.Govindaswamy)

**Versus**

1. Union of India represented by the General Manager,
Southern Railway, Headquarters Office,
Park Town PO, Chennai – 3.

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

3. The Divisional Personnel Officer,
Southern Railway, Palghat Division,
Palghat.

4. The Senior Divisional Engineer,
Southern Railway, Palghat Division,
Palghat. ...Respondents

(By Advocate Mrs.Sumathi Dandapani,Sr Advocate & Ms.PK Nandini)

**O.A.No.793/05**

1. Hentry Lawrence,
S/o.Lucose,
Ex-Casual Labourer,
Southern Railway, Trivandrum Division.
Residing at Shijila Bhawan, Elanthottam,
Dhanuvachapuram PO, Neyyattinkara TK,
Trivandrum.

2. L.Devaraj,
S/o.Lazar,
Ex-Casual Labourer,
Southern Railway, Trivandrum Division.
Residing at Kallingal Vilakam,
Parasuvaikkal, Parassala.

3. C.Ponnaiyyan,
S/o.Chellappan,
Ex-Casual Labourer,
Southern Railway, Trivandrum Division.
Residing at Manchadi Road Veedu,
Parasuvaikkal PO, Parasala,
Neyyattinkara TK, Trivandrum.

4. S.Rajamoni,
S/o.Silomani Nadar,
Ex-Casual Labourer,
Southern Railway, Trivandrum Division.
Residing at Manchadiputhen Veedu,
Kottamom, Parasuvaikkal PO, Parasala,
Neyyattinkara TK, Trivandrum. ...Applicants

(By Advocate Mr.T.C.Govindaswamy)

**Versus**

1. Union of India represented by the General Manager,
Southern Railway, Headquarters Office,
Park Town PO, Chennai – 3.

2. The Divisional Railway Manager,
Southern Railway, Trivandrum Division,
Trivandrum – 14.

3. The Senior Divisional Personnel Officer,
Southern Railway, Trivandrum Division,
Trivandrum – 14.

4. The Chairman,
Railway Board, Railway Bhavan,
New Delhi. ...Respondents

(By Advocate Mr.P.Haridas)

**O.A.No.804/05**

N.K.Koya,
S/o.Kunhoyi,
Ex-Casual Labourer,
Southern Railway, Palghat Division.
Residing at Nalukandathil House,
Perumanna PO, Calicut – 673 026. ...Applicant

(By Advocate Mr.T.C.Govindaswamy)

**Versus**

1. Union of India represented by General Manager,
Southern Railway, Headquarters Office,
Park Town PO, Chennai – 3.

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

3. The Senior Divisional Personnel Officer,
Southern Railway, Palghat Division,
Palghat. ...Respondents

(By Advocate Mrs.Sumathi Dandapani,Sr.Advocate & Ms.PK Nandini)

**O.A.No.869/05**

C.M.Vishnu,
Ex-Casual Labourer,
House No.8/60-1, Puthenveedu,
Karavilai, Kumaracoil, Kanyakumari Distt. ...Applicant

(By Advocate Ms.Vani P)

**Versus**

1. Union of India represented by its General Manager,
Southern Railway, Headquarters Office,
Park Town PO, Chennai – 3.

2. The Senior Divisional Personnel Officer,
Southern Railway, Trivandrum Division,
Trivandrum. ...Respondents

(By Advocate Mr.K.M.Anthru)

**O.A.No.248/06**

Basheer K.M.,
S/o.Mohammed,
Retrenched Casual Labourer Gangman,
Residing at Karippattu House,
Marithazham PO, Kanjiramattom,
Ernakulam District – 682 315. ...Applicant

(By Advocate Mr.M.P.Varkey)

**Versus**

1. Union of India represented by General Manager,
Southern Railway, Chennai – 600 003.

2. Senior Divisional Personnel Officer,
Southern Railway, Trivandrum – 695 014. ...Respondents

(By Advocate Mrs.Sumathi Dandapani,Sr. Advocate & Ms.PK Nandini)

**O.A.No.272/06**

M.Ramasamy,
S/o.Murugan,
Ex-Casual Labourer,
Southern Railway, Palghat Division,
Manavasi PO, Krishnarayapuram Taluk,
Karur District, Tamil Nadu. ...Applicant

(By Advocate Mr.T.C.Govindaswamy)

**Versus**

1. Union of India represented by the General Manager,
Southern Railway, Headquarters Office,
Park Town PO, Chennai – 3.

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

3. The Senior Divisional Personnel Officer,
Southern Railway, Palghat Division,
Palghat.

4. The Senior Divisional Engineer,
Southern Railway, Palghat Division,
Palghat. ...Respondents

(By Advocate Mrs.Sumathi Dandapani,Sr Advocate & Ms.PK Nandini)

**O.A.No.334/06**

K.Krishnadas,
S/o.Kumaraswamy,
Ex-Casual Labourer,
Southern Railway, Trivandrum Division,
KCA Cottage, Parayan Villai,
Kappukkadu Post, Kanyakumari Distt. ...Applicant

(By Advocate Mr.T.C.Govindaswamy)

**Versus**

1. Union of India represented by the General Manager,
Southern Railway, Headquarters Office,
Park Town PO, Chennai – 3.

2. The Chief Personnel Officer,
Southern Railway, Headquarters Office,
Part Town PO, Chennai – 3.

3. The Divisional Railway Manager,
Southern Railway, Trivandrum Division,
Trivandrum – 14.

4. The Senior Divisional Personnel Officer,
Southern Railway, Trivandrum Division,
Trivandrum – 14. ...Respondents

(By Advocate Mrs.Sumathi Dandapani,Sr. & Ms.PK Nandini)

**O.A.No.335/06**

J.Christudhas,
S/o.Joseph,
Ex-Casual Labourer,
Southern Railway, Trivandrum Division.
Residing at Irukkavilai, Marudurkurichi Post,
Kanyakumari Distt. ...Applicant

(By Advocate Mr.T.C.Govindaswamy)

**Versus**

1. Union of India represented by the General Manager,
Southern Railway, Headquarters Office,
Park Town PO, Chennai – 3.

2. The Chief Personnel Officer,
Southern Railway, Headquarters Office,

Part Town PO, Chennai – 3.

3. The Divisional Railway Manager,
Southern Railway, Trivandrum Division,
Trivandrum – 14.

4. The Senior Divisional Personnel Officer,
Southern Railway, Trivandrum Division,
Trivandrum – 14. ...Respondents

(By Advocate Mrs.Sumathi Dandapani,Sr. & Ms.PK Nandini)

**O.A.No.336/06**

N.Samuel,
S/o.Nagamony,
Ex-Casual Labourer,
Southern Railway, Trivandrum Division,
Thuruvel Vilai, Kanagavilasam,
Iranipuram PO, Kanyakumari Distt. ...Applicant

(By Advocate Mr.T.C.Govindaswamy)

**Versus**

1. Union of India represented by the General Manager,
Southern Railway, Headquarters Office,
Park Town PO, Chennai – 3.

2. The Chief Personnel Officer,
Southern Railway, Headquarters Office,
Part Town PO, Chennai – 3.

3. The Divisional Railway Manager,
Southern Railway, Trivandrum Division,
Trivandrum – 14.

4. The Senior Divisional Personnel Officer,
Southern Railway, Trivandrum Division,
Trivandrum – 14. ...Respondents

(By Advocate Mrs.Sumathi Dandapani,Sr.Advocate & Ms.PK Nandini)

**O.A.No.352/06**

1. R.Harison Daniel,
S/o.Robinson Daniel,
520-F Kesava Thiruppapuram,
Vetturnimadam, Nagarcoil – 629 003.
Ex-Casual Labourer,
Southern Railway, Trivandrum Division.

2. M.Shanmugavel,
S/o.Muthaiah Thevar,

4/131-F, Radhapuram Road,
Valliur PO, Tirunelveli District.
Ex-Casual Labourer,
Southern Railway, Trivandrum Division.

3. G.Peachie,
S/o.Ganapathi Thevar,
83,23-A-1, Thevar East Street,
North Valliur, Valliur PO,
Thirunelveli Distt. 627 117.
Ex-Casual Labourer,
Southern Railway, Trivandrum Division.

4. S.Muruganantham,
S/o.Subbaiah Thevar,
114-A, Radhapuram Road,
Valliur PO, Thirunelveli Distt. 627 117.
Ex-Casual Labourer,
Southern Railway, Trivandrum Division.

5. A Desika Vinayagam,
S/o.Arunachalam Pillai,
Puthugramam, Ramapuram PO,
Kanyakumari Distt. 629 303.
Ex-Casual Labourer,
Southern Railway, Trivandrum Division.

6. E.Thangaraj,
S/o.Eanakulamuthu Nadar,
Palkulam, Variyur PO,
Kanyakumari Distt. 629 404.
Ex-Casual Labourer,
Southern Railway, Trivandrum Division.

7. P.David Gnanadhas,
S/o.Ponniah Nadar,
80, Thalavai Puram,
Ramanputhur, Nagercoil – 629 002.
Ex-Casual Labourer,
Southern Railway, Trivandrum Division.

8. J.Jeevanandam,
S/o.Jeevadhas,
Kumarapuram Thoppur PO,
(Via) Suchindram, Kanyakumari Distt.
Ex-Casual Labourer,
Southern Railway, Trivandrum Division.

9. T.Thankavel,
S/o.Thuraimani,
Vellayam Thoppu, Chanthayadi PO,
Kanyakumari – 629 703.
Ex-Casual Labourer,
Southern Railway, Trivandrum Division. ...Applicants

(By Advocate Mr.T.C.Govindaswamy)

**Versus**

1. Union of India represented by the General Manager,
Southern Railway, Headquarters Office,
Park Town PO, Chennai – 3.

2 The Chief Personnel Officer,
Southern Railway, Headquarters Office,
Part Town PO, Chennai – 3.

3 The Divisional Railway Manager,
Southern Railway, Trivandrum Division,
Trivandrum – 14.

4. The Senior Divisional Personnel Officer,
Southern Railway, Trivandrum Division,
Trivandrum – 14. ...Respondents

(By Advocate Mrs.Sumathi Dandapani,Sr. Advocate & Ms.PK Nandini)

**O.A.No.353/06**

1. F.Anthoniswami,
S/o.Francis,
Ex-Casual Labourer,
Southern Railway, Trivandrum Division.
Door No.8/14, Therku Theru,
Pasukadai Vilai, Vikram Sing Puram,
Ottappidaram TK, Tuticorin Distt.

2. G.Marimuthu,
S/o.Gangaiyyan,
Ex-Casual Labourer,
Southern Railway, Trivandrum Division.
Door No.4/39, Muramban PO,
Tuticorin Distt.

3. S.Raman,
S/o.Subbiah,
Ex-Casual Labourer,
Southern Railway, Trivandrum Division.
Elayarkulam, Unnankulam PO,
Nangunery, Tirunelveli Distt.

4 S.Nainar,
S/o.Swaminathan,
Ex-Casual Labourer,
Southern Railway, Trivandrum Division.
Chembaka Ramanalloor PO,
Nanchankulam, Nanguneri, Tirunelveli.

5. T.Paul Raj,
Ex-Casual Labourer,
Southern Railway, Trivandrum Division.
Door No.50/5, Kallathi Kinaru,
Parivallikkottai, Tuticorin. ...Applicants

(By Advocate Mr.T.C.Govindaswamy)

**Versus**

1. Union of India represented by the General Manager,
Southern Railway, Headquarters Office,
Park Town PO, Chennai – 3.

2. The Chief Personnel Officer,
Southern Railway, Headquarters Office,
Part Town PO, Chennai – 3.

3. The Divisional Railway Manager,
Southern Railway, Trivandrum Division,
Trivandrum – 14.

4. The Senior Divisional Personnel Officer,
Southern Railway, Trivandrum Division,
Trivandrum – 14. ...Respondents

(By Advocate Mrs.Sumathi Dandapani,Sr.Advocate & Ms.PK Nandini)

**O.A.No.424/06**

C.Thankan,
S/o.Chellan,
Kizhakkekara Puthen Veedu,
Ramasserikonam, Pallichal,
Naruvamoodu PO, Thiruvananthapuram Distt. ...Applicant

(By Advocate Mr.M.P.Varkey)

**Versus**

1. Union of India represented by General Manager,
Southern Railway, Chennai – 600 003.

2. Divisional Personnel Officer,
Southern Railway, Trivandrum – 695 014. ...Respondents

(By Advocate Mrs.Sumathi Dandapani,Sr.Advocate & Ms.PK Nandini)

**O.A.No.514/06**

V.Chandrasekharan Nair,
S/o.Velayudhan Nair,
(Retrenched Casual Labourer),

Residing at Vadakke Ayahiyarathala,
Perumpazhuthoor PO, Neyyattinkara,
Thiruvananthapuram Distt. ...Applicant

(By Advocate Mr.M.P.Varkey)

**Versus**

1. Union of India represented by General Manager,
Southern Railway, Chennai – 600 003.

2. Divisional Personnel Officer,
Southern Railway, Trivandrum – 695 014. ...Respondents

(By Advocate Mrs.Sumathi Dandapani,Sr. & Ms.PK Nandini)

**O.A.No.553/06**

1. K.John Rose,
S/o.Kutti Nadar,
Ex-Casual Labour,
Southern Railway, Trivandrum Division.
Residing at Arachula Veedu,
Karavilai Nallur, Marthandam PO,
Kanyakumari Distt.

2. A.Johnson,
S.o.S.Arumanayagam,
Ex-Casual Labourer,
Southern Railway, Trivandrum.
Residing at Karumputhdttam, Kattathurai PO,
Kanyakumari Distt.

3. D.Sankaran,
S/o.Daveethu,
Ex-Casual Labourer,
Southern Railway, Trivandrum Division.
Residing at Thozhikottu Vilai,
Pootteri PO, Kanyakumari Distt. ...Applicants

(By Advocate Mr.T.C.Govindaswamy)

**Versus**

1. Union of India represented by the General Manager,
Southern Railway, Headquarters Office,
Park Town PO, Chennai – 3.

2. The Divisional Railway Manager,
Southern Railway, Trivandrum Division,
Trivandrum.
3. The Senior Divisional Personnel Officer,
Southern Railway, Trivandrum Division,
Trivandrum. ...Respondents

(By Advocate Mrs.Sumathi Dandapani,Sr. & Ms.PK Nandini)

**O.A.No.613/06**

1. Shadananan Nair,
S/o.Neelakanta Pillai,
Ex-Casual Labourer,
Edachirathoor Veedu,
Nadour Kolla, Manchavilakam Post,
Neyyattinkara.

2. K.Vijayakumar,
S/o.Kunhikrishna Pillai,
Ex-Casual Labourer.
Residing at Vadake Puthen Veedu,
Mankottukonathu, Amaravila PO,
Neyyattinkara.

3. K.Ravindran Nair,
S/o.Kuttan Pillai,
Ex-Casual Labourer.
Residing at Thekkeputhen Veedu,
Kuzhivila, Nadour Kolla, Amaravila PO,
Neyattinkara.

4. K.Radhakrishnan,
S/o.Kuttan Pillai,
Ex-Casual Labourer,
Palanthala Veedu, Maruthoor,
Neyyattinkara PO, Trivandrum Distt. ...Applicants

(By Advocate Mr.T.C.Govindaswamy)

**Versus**

1. Union of India represented by the General Manager,
Southern Railway, Headquarters Office,
Park Town PO, Chennai – 3.

2. The Divisional Railway Manager,
Southern Railway, Trivandrum Division,
Trivandrum.

3. The Senior Divisional Personnel Officer,
Southern Railway, Trivandrum Division,
Trivandrum. ...Respondents

(By Advocate Mrs.Sumathi Dandapani,Sr. & Ms.PK Nandini)

**O.A.No.614/06**

1. V.Rajendran,
S/o.Velayudhan Assari,
Ex-Casual Labourer,
Southern Railway, Trivandrum Division.
Residing at Mankuzhi Road, Chanal Karai,
Monday Market, Neyoor PO,
Kanyakumari Distt.

2. K.Padmanabha Das,
S/o.Kalipillai,
Ex-Casual Labourer,
Southern Railway, Trivandrum Division.
Residing at Krishnavahai,
Chemmankadai PO, Villikkuri,
Kanyakumari Distt.

3. P.Micheal George,
S/o.Pankiyaraj,
Ex-Casual Labourer,
Southern Railway, Trivandrum Division.
Residing at 17/22A, Aluvilai, Kandan Vilai,
Kandanvilai PO, Kanyakumari Distt.

4. N.Murugan,
S/o.Nadankannu Nadar,
Ex-Casual Labourer,
Southern Railway, Trivandrum Division.
Residing at Kannattuvilai, Kannattuvilai PO,
Narniel Village, Kanyakumari Distt.

5. T.Padmanabha Pillai,
S/o.Thenna Pillai,
Ex-Casual Labourer,
Southern Railway, Trivandrum Division.
Residing at Krishnavahai,
Eraniel Melakonam, Eraniel Village,
Neyoor, Kanyakumari Distt.

6. S.Thenga Velu,
S/o.Sankaran Nadar,
Ex-Casual Labourer,
Southern Railway, Trivandrum Division.
Residing at 110-A, Kanjira Vilai,
Eraniel, Neyoor PO, Kanyakumari Distt.

7. C.Raja Rathinam,
S/o.Chellaya Nadar,
Ex-Casual Labourer,
Southern Railway, Trivandrum Division.

8. S.Sunderdas,
S/o.Swami,
Ex-Casual Labourer,
Southern Railway, Trivandrum Division.
Residing at 967/P, 46/2-1, Rani Thottam,
North Street, Mesamony Nagar, Nagarcoil,
Kanyakumari Distt.

9. V.Regh Nathan,
S/o.Velayudhan Pillai,
Ex-Casual Labourer,
Southern Railway, Trivandrum Division.
Residing at Ethan Kadu,
Vellichanthai PO, Kalkulam,
Kanyakumari Distt.

10. K.Velayya,
S/o.Krishnan Nadar,
Ex-Casual Labourer,
Southern Railway, Trivandrum Division.
Residing at Meekanvilai, Karaykad,
Kasangadi PO, Kuruthamkodu,
Kalkulam, Kanyakumari Distt. ...Applicants

(By Advocate Mr.N.Mahesh)

**Versus**

1 Union of India represented by the General Manager,
Southern Railway, Headquarters Office,
Park Town PO, Chennai – 3.

2. The Senior Divisional Personnel Officer,
Southern Railway, Trivandrum Division,
Trivandrum.

3. The Chairman,
Railway Board, Railway Bhavan,
New Delhi. ...Respondents

(By Advocate Mrs.Sumathi Dandapani,Sr.Advocate & Ms.PK Nandini)

## ORDER

**HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN**

All these Applications raise a common question of law regarding the age limits to be adopted for absorption of retrenched casual labour included in the Merged seniority List prepared under the scheme approved by th Apex Court in Inder Pal Yadav case, in Grs. C & D posts in the Southern Railway arising as a result of the re-engagement exercise initiated by the Railways vide their Letters dated 24.3.2003 and 20.6.2003. All the applicants are retrenched casual labours and the reliefs sought for are also the same. Hence the OAs were heard together and are being disposed of by this common order.

2 For facility of reference and for a better understanding of the issue, the basic facts averred in these Applications are narrated in brief in seriatum.

**OA No. 271/06**

3 All the 21 applicants are retrenched casual labour of Trivandrum Division borne on the live register at Sl. Nos. 1911, 2344, 2018, 2017, 2799, 1972, 2204, 2306, 2113, 2315, 2983, 2246, 2952, 2042, 2082, 1909, 1933, 2097, 1950, 2077 and 2119. They belong to the OBC category. They seek identical treatment as granted to the applicants by the order in O.A 633 of 2003 confirmed by the

Hon'ble High Court in W.P.C. No 30832 of 2004.

**OA No.179/04**

4 The applicant herein is an OC candidate. His position in the seniority list is Sl No 2101. He has prayed for quashing the Railway Board's orders at Annexures 5, 6 & 7 and the call letter of the Railway Administration dated 9.4.2003. and consideration of his juniors by the said communication. He is a casual labour retrenched prior to 1.1.1981.

**OA No. 180/04**

5 The applicant is Sl. No 2509 in the merged list. Prior to the merger his name was included in the list of persons retrenched prior to 1.1.81 also. He is an OC candidate. He has mentioned the names of two juniors who were absorbed without reference to the maximum age limit and seeks consideration under Para 179 (iii) © of the IREM.

**OA. No. 915/04**

6 The applicant is an OBC candidate and is borne on the Live Register at Sl No 747. He did not receive the communication dated 12.3.2003 through which the persons in the seniority list between 636 and 1395 were called for verification. He represented but no action was forthcoming.

**OA 793/2005**

7 The four applicants are borne on the seniority list of casual labour at Sl Nos. 2259, 2301, 2248 & 2801 respectively. They are seeking absorption in terms of the provisions in para 179 (xiii)(c) of

the Railway Establishment Manual. All are OBC category.

**OA No. 804/05**

8 The applicant is an ex casual labour of Palghat Division and his name is in Live Register at Sl No 1369. His case was not considered as he has crossed 43 yrs. of age as on 1.1.2003, though he was summoned for verification of records. He was retrenched in 1986. and was within the age limit at the time of engagement in 1979 as his date of birth is 1.6.1955. He is an OBC candidate.

**OA No.869/05**

9 The applicant is an ex casual labour of Trivandrum Division retrenched on 6.12.81, his seniority is at Sl No 2001-A in the List. He relies on the judgement in OA 633/2003.He belongs to OBC community. His case was not considered as he had crossed the age limit of 43 years.

**OA No. 248/06**

10 The applicant was retrenched on 15.10.79. Included in the merged seniority list at Sl No 2487. He belongs to OBC Category. Relies on judgements in OA Nos 37/03 & 633/03. His date of birth is 3.12.59 and he completed 43 yrs and 29 days as on 1.1.2003.

**OA No.272/06**

11 The applicant is a retrenched casual labour of Palghat division borne on the Live Register at Sl No 776. He had earlier filed OA No.718/04 followed by CPC No 72/2005. He belongs to SC community. His date of birth is 4.6.1957, hence he was rejected as he had completed 45 years on 1.1.2003. he relies on the judgement

in OA633/03

**OA No.334/06**

12 The applicant is a retrenched casual labour of Trivandrum division and is borne on the List at Sl No 2038. He relies on order in OA 633/03 as the applicant therein was 55 years old whereas he is aged 50 yrs. His date of birth is 7.4.1956 and he is an OBC candidate.

**OA No. 335/06**

13 The applicant is an ex casual labour of Trivndrum division borne on the Live Register at Sl No1990. He relies on the order in OA 633/03. He belongs to OBC and his date of birth is 20.1.1956.

**OA No.336/06**

14 The applicant is a retrenched casual labour of Trivandrum division borne on the Live Register at Sl No2049. He claims that he is entitled to be considered as provided in para 179 (xii)c of the IREM. He relies on the order in OA 633/03. His date of birth is 9.3.1954 and he belongs to OBC.

**OA No. 352/06**

15 The nine applicants are retrenched casual labours of Trivandrum division borne on the Live Register at Sl Nos 2033, 2663, 2251, 2254, 2541, 2069, 2096, 2280 and 2284. They claim that they are similarly situated as the applicant in OA 633./03. The applicants are all persons in the OBC category.

**OA No. 353/06**

16 The five applicants are retrenched casual labours borne on the

Live Register at Sl Nos 2933, 2264, 2661, 2539 & 2214. They have submitted that they are identically situated like the applicant in OA 633/03 and are entitled to identical treatment.

**OA No. 424/06**

17 The applicant is a pre-1981 retrenched casual labour and figures in the merged seniority list at Sl No 2009. He relies on orders of this Tribunal in OAs 386/05, & 766/04 and the Hon'ble High Court's order in W.P.30832 of 2004. His date of birth is 2.2.57 and he is an OBC candidate.

**OA No. 514/06**

18 The applicant is a pre-1981 ex-casual labour of Trivandrum division borne on the Live Register at Sl No 2098. He has relied on the order in OA Nos. 386/2005 and 766/2004. His date of birth is 11.11.53 and he is an OC candidate.

**OA No. 553/06**

19 The three applicants are ex-casual labours in the Trivandrum division borne on the Live Register at Sl Nos 2026, 2174 and 2123 respectively. They rely on para179 (xii)c of IREM and the order in OA 633/03. They are all OBC candidates.

**OA No. 613/06**

20 The four applicants are pre -1981 retrenched casual labours of Trivandrum division. They are borne on the Live Register at Sl Nos 2783A, 1998, 2015 and 2137. They rely on Para 179 (xii) c and the order of this Tribunal in OA 633/03. They are OBC candidates.

**OA 614/06**

21 The ten applicants are ex-casual labbours belonging to Trivandrum division and borne on the seniority list at Sl Nos. 2076, 2130, 2034, 2012, 2064, 2809, 2060, 2065, 1900 and 2050 respectively. They rely on Para 179 (xii)c of the IREM and the order in OA 633/03. All are OBC candidates. The 6th and 10th applicants are pre-1981 retrenchees.

22 As seen from the above facts as narrated, the sum and substance of the submissions of the applicants is that they are all persons with long years of service in the Railways and now find themselves excluded from being considered for screening and absorption on the ground of their being over-aged only because of their longevity in service and though they appeared before the authorities for the screening as per the circular letters dated 24.3.2003 and 20.6.2003, their juniors were selected overlooking them.

**Grounds taken are mainly:-**

23 (1) They are all borne on the list of retrenched casual labourers prepared as per the direction of the Hon Supreme Court in Inderpal Yadav's case and are therefore entitled to be absorbed in their turn as provided by the Hon Supreme court in the said judgement.

(2) They are persons identically situated like the applicants in OA 633/2003, upheld by the Hon'ble High Court of Kerala in W.P.

(C) 30832 of 2004 and entitled to similar treatment.

(3) They are entitled to be screened and appointed without any age limit as provided in para179 (XII) © of the Indian Railway Establishment Manual Vol I.

(4) There was no age limit in existence during 1998,1999, 2000 etc when persons similar to the applicants were invited to be considered for absorption and any subsequent prescription is therefore discriminatory.

(5) The orders of the Railway Board in Lr No E(NG) II/99/CC/19 dated 20.9.2001 and Lr. No.E(NG)II-I/95/PM-I dated 11.1.91 and Lr. No E(NG)-II/91/CL/71 dated 25.7.91 are against the decisions of the Hon Supreme court in Inderpal yadav's case and the prescription of age limit for absorption of persons from the merged seniority list is wrong.

24 **Reliefs sought**

The reliefs sought in OAs 271/06 and 180/2004 are taken as representative of all the above mentioned OAs with minor modifications and extracted as under:-

a) Declare that the applicants are entitled to be considered for regular absorption having regard to seniority as a casual labour and refusal to consider on the ground that he had crossed the age of 40 years is wrong and illegal

aa) To declare that the Annexure A 4to A 6 are wrong illegal and discriminating in nature, void and not enforceable against the applicant

b) To declare that the applicants are entitled to have an identical treatment as granted to the applicants in OA 633 of 2003 confirmed by the Hon'ble High court in W.P.No 3032 of 2004.

© To direct the respondents to consider the applicants in preference to and on par with their juniors with all consequential benefits emanating therefrom.

(d) Pass such orders or directions as deemed fit and necessary in the facts and circumstances of the cases

e) Award costs of and incidental to this application.

**Respondents' contentions**

25 The respondents have generally contended that

(1) There is no provision or direction in the scheme prepared by the Railways as per directions of the Hon Supreme court in Inderpal Yadav's case for empanelment irrespective of age, educational qualification, medical fitness etc. and the same has to be regulated according to the extant policy.

(2) It is not correct to say that there was no age limit prior to 2003 as per the provisions in the Manual, the admissible age relaxation for appointment is only the period equal to the period served as casual labour.

(3) Annexures R! & R2 enhancing the age limits are issued by the Railway Board and they have statutory force and the applicants have not challenged these circulars. The recognised

Trade Unions were heard before issue of these instructions.

(4) The applicants as could be seen from the facts are aged above 45 years. The relaxation of upper age limit for absorption of ex casual labour borne on the list has been allowed up to 40 years in the case of general candidates,43 in the case of OBC candidates and 45 years in the case of SC/ST candidates from July1991.

(5) They are not entitled to identical treatment as granted to the applicants in OA633/03 as vacancies that arose in that case were pertaining to the period 1998,1999 and 2000.and hence it was held therein that Railway Board's letter dated 20.9.2001 had come into force subsequently with prospective effect.

(6) They also rely strongly on the Judgement of the Madras Bench dismissing similar pleas of ex casual labour in OA 454/2005.

(7) They have also submitted that though the order in OA No. 633/03 was implemented, subsequently when orders were passed in another case OA 386/2005 following the dictum in OA 633/2003, the same had been challenged in WP(C) No.17375/2006. The Hon High Court has granted a stay in the matter. The order in OA 145/2004 following the order in OA 386/05 has also been appealed against in W.P(C) No.16330/2006 an d the Hon High court of Kerala has granted stay of operation of that order in that OA. W.P(c)

No.246/2006 is also pending against the order in OA 606/2004 in which stay has been granted. Order in OA 615/2004 has also been challenged in W.P © No.10066/2006.

26 I have heard the Learned counsel for both the Parties and their arguments are mainly on the same lines as on record. The claims of the petitioners are examined one by one with reference to the averments of the respondents and the material on record and the judgements and orders referred to therein.

27 One of the main contentions of the petitioners is that fixing of an age limit for consideration of absorption is against the spirit of the judgement of the Apex Court in Inderpal yadav's case. The respondents contend that the judgement in Inderpal Yadav & others Vs UOI & Ors (1985 SCC(L&S) 526) is in respect of the casual labourers who were in service and retrenched after 1.1.81 and it is not applicable to the applicants retrenched prior to 1981. However in compliance of the judgement in Dakshin Railway Employees Union case (AIR 1987 SC 1153) which is applicable in respect of casual labour retrenched prior to 1.1.81 the names of such applicants were included in a supplementary list and consequent on the order of the Tribunal in OA 1706/94 both the seniority lists of casual labourers retrenched before and after 1.1.81 have been merged and in that merged list, the applicants' names figure. Further they contend that the list prepared is for possible re-engagement and not eventual

absorption.

a) It is accepted that the applicants in these OAs belong to two categories viz those who were retrenched prior to 1.1.81 and those who were retrenched after that date .The applicants in OAs 179/04, 180/04, 248/06, 424/06, 514/06, 613/06 and 614/06 are pre-1981 retrenchees as seen from the record. There could be some others also. It is also accepted that consequent to this Tribunal's judgement in OA 1706/94, the first list and the supplementary list were merged and a merged seniority list as on 1.7.96 has been prepared and all the applicants with a few exceptions ( the respondents have contested the identity of the applicants as given in some of the applications like 336/06,353/06 553/06) are included in this list and their serial Nos as provided in the applications reflect their seniority in that list. There has been no contest of this seniority and it is a final and accepted position. The operative portion of the order in OA 1706/94 reads as under:

> " The letter dated 2.3.87 does not authorize the preparation of a supplementary seniority list and we do not find anything to warrant treating the group not in service on 1.1.81 differently by placing that group on a supplementary seniority list with lower priority.
>
> However, respondents have been acting on the first seniority list all these long years and it will not be conducive to the interests of administration to unsettle matters at this point. We, therefore direct that the seniority list prepared pursuant to the orders dated 11.986 and the suplementary list prepared pursuant to the orders date 2/3/87 be merged as on 1.7.96 and any engagement /reengagement/discharge made after 1.7.96 shall be in accordance with th e merged seniority list. Any person already engaged/reengaged prior to 1.7.96 will not be disturbed. After 1.7.96 any engagement / reengagement / discharge will be only in the order of their position in the

> merged seniority list. In other words the person who is already engaged by virtue of his position in the erstwhile Live register' would be discharged merely on the ground that he is junior in the merged list and that his seniors in the merged list are not engaged, but if he is discharged after 1.7.96 due to any other ground, he will be re engaged only in accordance with his seniority in the merged seniority list, any reengagement after 1.7.96 will be in accordance with the seniority in the merged seniority list."

One thing is clear from the above that in the merged list both the pre 1981 and post 1981 retrenched casual labour were amalgamated presumably based on the length of service and that prior to the preparation of this list for ten years after the judgement in Inderpal Yadav's case, the Railways had accorded priority to absorption of only the post 1981 cases. And it was only after 1997 that the merged list was being operated upon. This could be one of the reasons that the pre 1981 casual labour are still remaining to be absorbed. Since the decision in the DREU case was to include the pre 1981 retrenched casual labour also in the same scheme as approved in 'Inderpal Yadav' by the Apex Court and the personnel of both the categories got merged into one list; there is no doubt that the principles forming the basis of the directions in Inder Pal Yadav would apply without any distinction to all the personnel in the merged list prepared as on 1.7.96 and the contention to that effect by the respondents is not tenable.

b) Let us now examine the principles enshrined in the judgement in InderPal Yadav's case. In this case, the court was examining a flood of 80 petitions received from workmen styled as

'Project casual labour' who had put in continuous service for years on end ranging from 1974 till 1983 and whose services were terminated on the plea that the projects were wound up or their services were no more needed. The Railways then came up with a scheme for their absorption as temporary workmen on completion of 360 days of continuous employment and the Court with certain modifications accepted the Scheme and directed its implementation. The Head Notes in Inder Pal Yadav Vs UOI (1985 2 SCC 648) summarises these decisions succinctly and is extracted below :

> " Labour and services-Industrial Disputes Act,1947_ sections 25-F and 25 G- Casual labour employed on Railway Projects in continuous service for more than a year- Termination of their service on ground of winding up of the projects not justified- during pendency of their petitions before Supreme court, Railway administration framing scheme for their absorption as temporary workmen on completion of 360 days of continuous employment- Scheme made applicable to those in service as on January 1, 1984- since choice of that date likely to create arbitrary discrimination, scheme accepted by supreme court subject to modification in the date from January 1, 1984 to January 1, 1981- Absorption should be in order of length of continuous service – Principle of last come first go or in the reverse first come last go under section 25 G to be implemented- other suitable directions given."

Further in para 6 it was held

> "6. To avoid violation of Article14, the scientific and equitable way of implementing the scheme is for the Railway administration to prepare a list of Project casual labour with reference to each division of each Railway and then start absorbing those with the longest service. If in the process any adjustments are necessary, the same must be done. In giving this direction, we are considerably influenced by the statutory recognition of a principle well known in industrial jurisprudence that the men with longest service shall have priority over those who have joined laer on. In other words, the principle of last come first go or to reverse it first come last go as enunciated in Section 25 G of the Industrial Disputes Act, 1947 has been

accepted. We direct accordingly."

It is evident from the above that the Scheme approved was for temporary absorption of these workmen within a fixed time frame which as seen from the schedule given in para 3 of the said judgement was to be implemented within the dates prescribed by the court., which after the changes in dates as mentioned in the order should have been completed by 1984. since the Judgement in DREU case ordered the same treatment to pre- 1981 casual labour also they should have also been absorbed as temporary workmen by 1987 or so. Thus if the two judgements were implemented fully the merged list of retrenched employees till 1987 should have been granted Temporary status and also should have got absorption in Group-D posts by now. The respondents have not stated anywhere in their replies whether the applicants here were granted Temporary status. There is a mention in one of the reply statements that only those casual labour in the open line had been treated as temporary, if that is so, it would amount to saying that the directions in Inder Pal Yadav case have not been implemented in the case of Project labour and the implementation has been only to the extent of preparing a list and the absorption even on temporary basis is still hanging fire. The respondents state that the directions of the Apex Court are meant only for possible re-engagement . While such a contention is not tenable at all in view of the clear wordings of the order as quoted above and the use of the term 'absorption ' recurring in the

judgement, even re-engagement on priority has been denied to them. After remaining in the Register for two decades for no fault of theirs, they have now been eliminated from consideration by virtue of the prescription of an age limit and hence driven to knock at the doors of the Tribunal. No doubt the consideration now is for regular employment as Gr. D which is the next step after the temporary absorption and the respondents contend that certain Rules have to be followed in such a situation. If the judgement in Inder Pal Yadav was followed in letter and spirit, the situation as now existing would not have arisen. Therefore in this background we shall examine the vires and applicability of the Rules pertaining to age limits for absorption of casual labour as Gr.D. which are under challenge in these OAs.

28 Another main contention taken by the applicants is that they are entitled to be considered in terms of the provisions of para179 (xiii) © of the Railway Establishment Manual and under the said Rule there is no age limit prescribed for absorption of casual labour and that the Railway Board's orders dated 20.9.2001 which has been followed in the screening exercise in 2003 therefore cannot have any overriding effect over the Rules, being administrative instructions. In order to consider this aspect, I have examined the Rules and instructions and with a view to appreciate the modifications brought about chronologically these instructions are reproduced verbatim

**Para 179 (xiii) © as in IREM Vol I 1989 edition**

© A register should be maintained by all divisions concerned to indicate the names of casual labour, substitutes and temporary workmen who have rendered 6 months service either continuous or in broken periods, for the purpose of future employment as casual workmen and also as regular employees provided they are eligible for regular employment. The names should be recorded strictly in the order of their taking up casual appointment at the initial stage and for the purpose of empanelment for regular Gr D posts they should as far as possible be selected in the order as contained in the aforesaid registers. In showing preference to casual labour over other outsiders due consideration and weightage should be given to the knowledge a d experience gained by hem. Other conditions being equal, total length of service as casual labour, either continuous or in broken periods, irrespective of whether they have attained the temporary status or not, should be taken into account so as to ensure that casual labour who are senior by virtue of longer service are not left out.

Note: absorption of casual labour/ substitutes in regular vacancies will be subject to each casual labour/ substitutes being found eligible and suitable for such absorption.

(b) Relaxation of age limits is actually dealt with in para 115 of the IREM. The relevant sub para (iv) reads thus:

"(iv) for direct recruitment to all Group C and Group D vacancies, serving employees who have put in three years continuous service in the railways will be given age relaxation to the extent of service put in, subject to upper age limit of 35 years not being exceeded. Similar age concessions will be applicable to such of the casual labour/substitutes as have put in three years continuous or in broken spells."

This position which was prevailing with reference to Board's orders dated 28th April 1979 continued till Board's letter no E( NG)II / 91/ CL /71 dated 25th July 1991 was issued which reads thus:

Relaxation of upper age limit for casual labour/substitutes for recruitment against Group C and Gr. D posts.

"In terms of Ministry of Railway' letter No E (NG)II/79/CL/17 dated 28th April 1979, a casual labour/substitute who have put in 3 years ( at one stretch or in broken periods) are granted age relaxation up to the period of service put in subject to the age of 35 years not being exceeded. The Ministry of Railways have since reviewed the position and decided that age relaxation to the extent of casual labour /substitute service put in subject to upper age limit of 40 years in the case of General candidates and 45 years in the case of SC/ST candidates not being exceeded may also be granted in the case of casual labour/substitutes as has been agreed to in the case of serving employees vide Board' s letter No E (NG)I 90 /PM130 dated 17th May 1991."

The Para 115 (iv) was however amended to the above effect only in 1999 vide Advance correction slip No 69.

(c) Further, in terms of Ministry's letter No E(NG)II/99 dated 28.02.01 such relaxations seem to have been extended for absorption of ex casual labour borne on Live casual Labour/ Supplementary Live Casual Labour Registers and age relaxation has been allowed up to 40 years in the case of general candidates, 43 years in the case of OBC candidates and 45 years in the case of SC/ST candidates, provided they have put in three years service in continuous spells or in broken periods. This letter has not been produced but has been referred to in the subsequent letter dated 20.9.2001 which has been produced. It has to be logically construed therefore that the earlier instructions in April 1979and 1991 reproduced above were applicable to serving casual labour and the

age relaxations were made first applicable to ex- casual labour in the Live Registers only in 2001 for the first time.

(d) The next order came to be issued on 20.9.2001 and is reproduced below.

No E(NG)II/98/CL/19 20.9.2001

Sub: - Absorption in the Railways of ex casual labour borne on the Live /supplementary /Live Casual Labour Registers.

In terms of para 6 of this Ministry's letter of even number dated 28.2.2001, relaxation of upper age limit for absorption of ex casual labour borne on Live casual labour/supplementary casual labour registers has been allowed up to 40 years in the case of general candidates, 43 years in the case of OBC candidates and 45 years in the case of SC/ST candidates, provided that they have put in minimum three years service in continuous spell or i n broken spells as per instructions contained in this Ministry's letter No E(NG)II/91/CL?71 dated 25.7.91 read with their lewetter No E(NG)I/95/PM-I/I dated 11.1.99.

2 The question of removal of minimum three years service condition( continuous or broken) for the purpose of grant of age relaxation to casual labour as mentioned above has been taken up in the PNM-NFIR vide agenda item no 41/2001. AIRF has also taken up the question of enhancing the upper age limit. The manner has been carefully considered by this Ministry It has been decided that in partial modification of the instructions quoted above, the ex casual labour who had put in minimum 120 days casual service, whether continuous or broken spells and we e initially engaged as casual labour within the prescribed limit of 28 years for general candidates and 33 years for SC/ST candidates, would be given age relaxation up to the upper age limit of 40 years in the case of general candidates, 43years in the case of OBCs and 45 years in the case of SC/ST candidates. Other provisions for their absorption in Gr D will remain unaltered.

(3) It has also been decided that the ex casual labour

who become eligible as a result of above modification will be considered for absorption with prospective effect.

(4) Please acknowledge receipt.

Sd/-

Executive Director Railway Board

(e) By the above letter it is clear that what was intended by this order was only that the age relaxation granted by the earlier order dated 20.2.2001 was extended to those with minimum of 120 days of service also, in other words, the stipulation of minimum 3 years service in the earlier orders was reduced to 120 days.

29 From the chronological sequence narrated above it is evident that relaxation of age limits provided for casual labour included in the Live Register a s maintained by the Railways from 1979 or earlier were extended to retrenched casual labour only in February 2001. Then the question arises whether any limit existed at all and whether any age limits were being enforced prior to 2001? There is no categorical averment from the respondents in this regard. They have merely stated that seniority has not been overlooked in the empanelments held earlier in 1998, 1999 and 2000. This question had come up in OA633/03 before this Tribunal when certain casual labour bearing seniority Nos between1902 to 1995 had approached for relief aggrieved by the fact that their juniors were being considered in the 2003 empanelment which is challenged in these

OAs. In the pleadings in that OA the respondents have contended that the provisions of the IREM were not applicable in the case of retrenched casual labourers and such instructions pertain to persons who are in service. (para6 of the order refers). The following finding has been given by the Tribunal in para8 of the order. ' Admittedly, even the casual labourers whose names have been placed as per paragraph 179 (xii)© of IREM no age restriction has been given. On perusal of the Hon Supreme court's ruling it is also clear that there is no age restriction whatsoever has been placed in that decision ." I am very much in agreement with the same as there is no evidence produced to the contrary that age limits were being applied in the previous years.

30 Further, there is an exclusive chapter Xx in IREM Vol.II-1990 edition on casual labour and their service conditions. Para 2006 thereof deals specifically with absorption of casual labour in regular vacancies and relevant portion is extracted under to show that age relaxation was to be automatic if enrolled within the prescribed age limits.

> 2006. Absorption of Casual Labour in regular vacancies- Absorption of casual labour in regular Group-D employment may be considered in accordance with instructions issued by the Railway Board from time to time. Such absorption is, however, not automatic but is subject, inter alia, to availability of vacancies and suitability and eligibility of individual casual labour and rules regarding seniority unit method of absorption etc. decided by the Railway Administration.

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(iii) As long as it is established that a casual labour has been enrolled within the prescribed age limit, relaxation in upper age limit at the time of actual absorption should be automatic and guided by this factor. In old cases where the age limit was not observed, relaxation of age should be considered sympathetically. The DRMs may exercise such powers to grant relaxation in age limit.

Therefore the operation of such a restriction allof a sudden after two decades of the drawing up of the scheme was clearly arbitrary and discriminatory. and the applicants are right in contending that they are made to suffer for their long service when the intention was to give them relief on account of their long service.

31 Another related contention of th e applicants is that they are entitled to identical treatment as the applicants in OA633/03 which has been refuted by the respondents on the ground that the vacancies under dispute in that case were pertaining to the period 1998,1999 and 2000 and hence those vacancies were not to be filled up as per Railway Board 's letter which came into force subsequently on 20.9.2001. No doubt that OA was allowed by the Tribunal on the ground that the Board's letter could not be extended to the case of the applicants in 1998 recruitment. Relevant portion of Para 8 of the order is extracted under:-

"Moreover it is an admitted fact that the absorption of the vacancies arose in 1998/1999/2000 and process of selection was started in 1998 and it was completed on 24.3.2000. It is a well settled that a rule/regulation or any other instruction cannot have a life before it is born. This Railway Board's letter

is dated 20.9.2001. By the time the process of selection has already started and therefore I am of the considered view that this letter will have prospective effect and not retrospective effect. Therefore the age restrictions if any could only be implemented subsequent to 20.9.2001and not much before that.".

Obviously the Tribunal in the above OA was only concerned with the retrospective application of these instructions and was not required to go into the legality of the orders prescribing age limits as these orders had not been challenged. In some of the present OAs the vires of these orders have themselves been challenged and hence in the light of the findings above I hold that they are arbitrary and discriminatory and they deserve to be quashed. For the same reasons and findings rendered in the e OA633/03 as confirmed above it has to be held that th e conclusion reached in that OA that applicants therein should be considered without reference to age limits are applicable to the present set of OAs too.

32 The respondents have in their replies drawn support from the decision of the CAT Madras bench in OA 454/2005 dismissing similar pleas. I have gone through the same and find that the decision in that OA was based on an admission by the respondents that the fixation of age limit with necessary relaxation was taken even in 1991 itself and this had only been modified to the advantage of the ex-casual labourers by reducing the period of casual labour service to a minimum of 120 days and that this policy decision has

been in vogue and complied with uniformly from 1991 and as these remained unchanged these have become final and it cannot be questioned as arbitrary and unjust at this point of time. Further it has also been found that most of the applicants had not produced correct documents and their services could not be verified and confirmed. The position as brought out by the respondents in the Trivandrum and Palghat divisions is quite different. There is no averment that the respondents were following the age limits from 1991 onwards, in fact, the order in OA 633/03 makes it clear that it was not followed till 2000. Moreover, from the orders extracted above in para - it is clear that the 1991 instructions did not apply to ex casual labour, if it were so there was no need to issue an order in 20.2.1991 extending the relaxation to ex casual labour. I also do not think that when a list was drawn up by the Railways consequent to the directions of the Supreme Court. It would have been don e after proper scrutiny of the records available with the respondents and when the seniority has already been fixed on the length of service as borne out from records at that time, it is correct on the part of the respondents to shift the responsibility of proving their service on the casual labour after twenty years. Hence I am not able to accept the reliance placed by the respondents on the above judgement of the Madras Bench which has been rendered on the basis of the pleadings made by the respondents therein.

33 The picture that emerges from the above discussions is that

the applicants belong to a category of "Project casual labours" who were treated on a different footing from the "open line" casual labour in the Railways, whose cries of help were heard by the Hon'ble Supreme Court in the celebrated case of Inder Pal Yadav vs Union of India in 1985 and it was directed to give them temporary status in a phased manner as laid down with a time schedule in the judgement itself. The Railways prepared a list of such casual labour with 360 days of service as on 1.8.86. Subsequently by another judgement in DBEU Vs. General Manager, Southern Railway, casual labour who were not in service as on 1.1.81 the cut off date fixed in the earlier judgement but had completed 360 days of service were also directed to be included in the same scheme. But the Railways prepared a supplementary list of such persons. Though, in the normal course in accordance with the principles enunciated by the supreme court in the judgement and also the provisions in the IREM that preference should be granted to longer years of service, to be reckoned from the first appointment as casual labour the persons in the second list should have been given priority; the respondents started operating the first seniority list. This position was corrected by the order of this bench in O.A. 1706/94 by a direction to prepare a merged seniority list. The respondents it can be observed had therefore always given a step motherly treatment to the Project casual labour and further discriminated within their category by overlooking those who had been in their service earlier with the result that these personnel have been waiting in the so

called Live Register, without any benefits whatsoever for two decades in spite of the intervention of the Supreme court. The scheme as approved by the supreme court was meant exclusively for their benefit but except for their inclusion in a list, the benefits continued to elude them. It would not be an exaggeration to say that though they continued to be "LIVE", they could not get a means of LIVELIHOOD" These persons in the merged seniority list should have been treated on a different footing and efforts made to absorb those of them who were fit and eligible on priority so that this list could have been exhausted by now. That would have been in the true spirit of the Supreme court order. Instead they have been further subjected to fixation of an arbitrary age limit which is in any case is available to all employees in all departments for absorption in Gr. D service. Their peculiar circumstances do not seem to have been taken into consideration at all. While extending the orders applicable to all employees to them in the year 2001, the fact that these persons had been engaged prior to 1981 i.e. 20 years back when most of them would have already been in the age bracket of 24 to 28 years does not seem to have weighed with the Railways at all. If at all any age limit was necessary as argued by the respondents in the interest of safety and proper maintenance of tracks etc, the Railways should have considered fixing a higher age limit for this category, then at least it would have amounted to relaxation, whereas now it can be termed a restriction only and not a relaxation. The Hon'ble High Court of Kerala while confirming the order of this

Tribunal in OA 633/03 has rightly observed as follows:-

> " 5. The Tribunal had noticed that these instructions had come long after the petitioners had been brought to the Live register and the railway administration had not taken note of the circumstances that it was not a case of fresh recruitment as such, There was no such embargo, prescribed as could be gathered from the judgement of the supreme court in Inder Pal Yadav. It was for the above reason that the Tribunal had directed that the cases of the applicants should be considered ignoring the age factor.
>
> The applicants are a vanishing group and as the view point of the Railway administration had also been taken notice of we do not think that the stand taken by the Tribunal was so unreasonable for this court to interfere."

33 I am in respectful agreement with the same and am of the considered view that this vanishing tribe as in cluded in the merged seniority list deserves to be treated on a different footing and the orders of the Railway Board fixing the age limits as applicable to others is arbitrary and illegal and in contravention of the letter and spirit of th e judgement in Inder Pal Yadav's case. However , it is to be noted that the empanelment process challenged in these OAs was commenced in 2003 and the applications were filed during the period 2004 to 06 and during the pendency several people were appointed in the vacancies. It will not be conducive to the interests of administration and also to these employees to unsettle these persons now. During the hearing it was mentioned that many persons who had joined had left the jobs and still posts are available for being filled up.

34 For the above mentioned reasons, I am of the considered view that the findings of this Tribunal in the various earlier orders on the same issue have been vindicated in the Hon High court's order referred to above and it is the correct and legally valid solution to the problems of this category of retrenched casual labour who have been waiting for justice for long years.

35 In the result, I quash Ministry of Railways Letter No E(NG)-II/99/CL/19 dated 28.2.2001 and the letter of even No dated 20.9.2001 to the extent it relates to the retrenched casual labour placed in the merged seniority list tracing its origin from the directions in Inder Pal Yadav's case and as prepared consequent to this Tribunal's order in OA 1706/94 and direct that the applicants in these OAs be considered for regular absorption in the existing vacancies having regard to the seniority in the above mentioned merged list and without applying any age limit subject to medical fitness and other conditions for such absorption being fulfilled. The appointments made so far shall not be disturbed The respondents shall also endeavour to exhaust this list as early as possible while filling up future vacancies so that this category are not again driven to knock at the doors of the court for justice. Appropriate orders shall be passed and communicated to the applicants within a period of four months. OAs are allowed. No costs.

Dated 14.3.2007

Sd/-
**SATHI NAIR**
**VICE CHAIRMAN**