

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.268/04

Friday this the 1st day of October 2004

C O R A M :

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

1. K.K.Navunni,
W/o. Kittu,
Puthanpura House,
Kamba, Kinavallur P.O.
2. K.Lakshmi,
D/o.Pangi,
Naduvathara House,
Kinavallur P.O.
3. Khatheeja,
D/o. Muhammedkutty,
Parakkal House,
Vellikode P.O.
4. Aysha,
D/o.Veerankutty,
Parakkal House,
Vallikode P.O.
5. K.Ramani,
D/o.Damodaran Nair,
Kexhvappattu House,
Thrangali P.O., Mannannur.
6. N.Indira,
D/o. Kunchu,
Namprath House,
Velliyyadu, Mannannur P.O.
7. Prema,
D/o.Narayanan,
Mangattuchalil House,
Velliyyode, Mannannur P.O.
8. Rukmani,
D/o.Kunjunni,
Tharekkad House,
Velliyyadu, Mannannur P.O.
9. Vijayalakshmi,
D/o.Raman,
Kavuthiyattil House,
Velliyyadu, Mannannur P.O.
10. C.Padmini,
D/o.Kanan Ezhuthachan,
Cholayil House,
Velliyyadu, Mannannur P.O.

11. K.P.Karthiayani,
D/o.Ayyappan,
Koodathil Padi House,
Thrangali, Mannannur P.O.
12. T.Janamma,
D/o. late Krishnan Nair,
Tannikkad House,
Velliyyadu, Mannannur.
13. V.Nanikutty,
D/o.Achuthan Ezhuthachan,
Vadakkethara House,
Thrangali, Mannannur.
14. P.Yasoda,
D/o. late Krishnan,
Pularazhithodi House,
Mannannur P.O.
15. K.Janaki,
D/o.Kunhan,
Thottathil House,
Velliyyadu, Mannannur P.O.

Applicants

(By Advocate Mr.P.Ramakrishnan)

Versus

1. Union of India represented by
the General Manager,
Southern Railway, Chennai.
2. The Divisional Personnel Officer,
Southern Railway, Palghat Division,
Palghat.
3. Noorjahan,
Puzhakal House,
Post Kinavalloor,
Parali, Palghat.

Respondents

(By Advocate Mr.P.Haridas [R 1&2] & Mr.M.R.Hariraj [R3])

This application having been heard on 1st October 2004 the
Tribunal on the same day delivered the following :

O R D E R

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

Learned counsel of the applicants states that the
applicants are not pressing the reliefs other than what is
claimed in sub-paragraph B of paragraph 8 of the application.
The applicants claim to be retrenched casual labourers of
Engineering Department of Palghat Division of Southern Railway.

(Signature)

When they were retrenched in the year 1984 an industrial dispute was raised which was ultimately decided by the Labour Court, Ernakulam by award dated 17.6.1996 directing the reinstatement of the applicants with backwages. The O.P.No.15479/97 filed by the Railway Administration against the award was dismissed by the Hon'ble High Court of Kerala. A Writ appeal filed before the Division Bench of the Hon'ble High Court was also rejected. However, the respondents carried the matter before the Hon'ble Supreme Court in SLP No.402/02 which is still pending. According to the applicants their names are included in the live register of retrenched casual labourers. Coming to know that the respondents have issued Annexure A-1 empanelment of retrenched casual labourers who figure lower in seniority compared to the applicants for absorption on Group D posts the applicants submitted Annexure A-2 representation on 12.3.2002. The applicants did not find any response but found person whose names were shown in Annexure A-1 called for screening. Under these circumstances the applicants filed this application for a direction to the respondents to empanel the applicants in available Group D posts in the Engineering Branch of the Palghat Division. Although the applicants had initially sought other reliefs including the quashing of Annexure A-1 panel and impleaded the 3rd respondent, one of the alleged junior of the applicants, who had been empaneled, such reliefs are not pressed by the applicants now. The applicants have alleged in their application that the exclusion of the applicants for consideration for empanelment is arbitrary and irrational.

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2. Respondents in their reply statement contend that considering the representation of the applicants they were also considered for empanelment, that applicants other than No.2, 6, 7, 8 and 10 being over aged they were not eligible to be empaneled, that applicant No.2 did not produce any evidence except affidavit in proof of age which was not permissible as per the extant instructions, that there was discrepancy in the name of father of the applicant No.6, that there was discrepancy in the name of applicant No.7, that the applicant No.8 had not produced the original Casual Labour Card but produced affidavit and that the applicant No.10's name is not available in the live register and that for these reasons these applicants are not entitled to be empaneled and reply in that behalf had already been given to them. Respondents, therefore, contend that the application is devoid of merit and has got to be dismissed. The respondent No.3 has filed a reply statement we are not referring to the contentions in view of the fact that relief sought for quashing Annexure A-1 is not pressed by the applicants.

3. In the rejoinder the applicants have stated that the applicant No.10's name is at S1.No.806 in the live register and her LTI No. is 408. However her name has been shown in the register as Padmini.T. instead of C.Padmini and that the stand of the respondents in not considering the regularisation of the applicants on the unsustainable ground is unsustainable.

4. I have gone through the entire pleadings and materials placed on record. Since the averment in the reply statement that the applicants other than 2, 6, 7, 8 and 10 are over aged has not

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been refuted by the applicants, the case of the respondents that these applicants are over aged and therefore cannot be considered for absorption has to be accepted. However, I find that to deny the applicants 2, 6, 7, 8 and 10 consideration for empanelment on par with persons with similar length of casual service on the ground that there is discrepancy in the name or that the proof of age other than affidavit was not produced or that there was a difference in father's name cannot be justified. The contention of the respondents that the applicant No.10's name is not there in the live register has also not been proved by production of live register. The applicants have in the rejoinder stated that applicant No.10 is at S1.No.806 in the live register and her LTI number has also been given. Under these circumstances I am of the considered view that the respondents have to reconsider the claim of the applicants 2, 6, 7, 8 and 10 for empanelment on Group D posts with effect from the dates on which persons with similar or lesser length of service was empaneled after comparison of their LTI with the impressions in the LTI register for fixing the identity in case of doubt of father's name or incumbent's name and in case of doubt regarding the age after ascertaining the age by subjecting the concerned applicants for examination by a competent medical officer and if they are found entitled, eligible and suitable for empanelment to issue orders accordingly. The application is disposed of with the above direction which is to be complied with within a period of three months from the date of receipt of a copy of this order. When the applicants are called for verification of LTI they shall produce all the original documents in their possession before the authorities. However, this order will be without prejudice to

the claim of the applicants now pending before the Supreme Court in SLP No.402/02.

(Dated the 1st day of October 2004)



A.V. HARIDASAN
VICE CHAIRMAN

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