

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 269 OF 2012

Monday, this the 15th day of October, 2012

CORAM:

**HON'BLE Mr.JUSTICE P.R.RAMAN, JUDICIAL MEMBER
HON'BLE Mr. K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

Sukumaran S
Goods Guard (Ad-hoc)
Southern Railway,
Shoranur, Palakkad

... Applicant

(By Advocate Mr. U.Balagangadharan)

versus

1. The Senior Divisional Personnel Officer
Palakkad Division
Southern Railway
Palakkad – 678 014
2. The Chief Personnel Officer
Southern Railway Hqs
Park Town, Chennai – 600 003
3. The Secretary
Railway Board
Rail Bhavan
New Delhi – 110 001

... Respondents

(By Advocate Mr.Thomas Mathew Nellimoottil)

The application having been heard on 15.10.2012, the Tribunal on the same day delivered the following:

ORDER

HON'BLE Mr.JUSTICE P.R.RAMAN, JUDICIAL MEMBER

For filling up the post of Goods Guard on ad-hoc basis Railway issued notification Annexure A-1 dated 15.09.2009. As per Annexure A-1 selection for the post of Goods Guard in PB I ` 5200-20200 + Grade pay of ` 2800/- against 60% promotion quota on ad-hoc basis was to be made. As per Sl.No.3 in Column 1, Ticket Collector / Senior Ticket Collector and Commercial Clerk / Senior Commercial Clerk are eligible categories for promotion by way of category change as per Annexure A-1. Applicant has applied for the post. He was duly selected



and after undergoing training he was appointed on ad-hoc basis. Subsequently, by Annexure A-2 dated 12.09.2011 another notification was issued two years after Annexure A-1, for regular selection to the post of Goods Guard against 60% promotion quota from among the volunteers of the categories mentioned thereunder. Obviously, the Senior Commercial Clerks have been omitted from the category entitled to apply. This change was brought out based on an executive order Annexure R-1 as per which the category change can be given as per Annexure R-1 for filling up the post of Goods Guard in terms of which only the staff in grade lower than the grade for which selection is being held, are eligible to appear for the selection. Admittedly, the scale of pay of Senior Commercial Clerks is equal to that of Goods Guard and as per Annexure R-1, the Senior Commercial Clerks may not be entitled for any category change by way of promotion. But the point that has been canvassed is that Annexure R-1 is only an executive order which cannot override the provisions contained in IREM which is statutory in nature. As per 124 of IREM Senior Commercial Clerks are included as feeder category for promotion of Goods Guard by category change. This is not in dispute. If so, the IREM cannot be amended by an executive order. Hence until IREM is amended in accordance with law the position is that Senior Commercial Clerk will continue to be entitled to be included as eligible category for promotion by way of category change to the post of Goods Guard. In the circumstances, we quash Annexure A-2 to the extent it excludes Senior Commercial Clerk from being considered to the post of Goods Guard by way of promotion to the 60% promotion quota.

2. OA is **allowed** as above. No costs.

Dated, the 15th October, 2012.


K GEORGE JOSEPH
ADMINISTRATIVE MEMBER


JUSTICE P.R. RAMAN
JUDICIAL MEMBER

vs