

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO. 284/93

Tuesday, this the 1st day of February, 1994

SHRI N. DHARMADAN, MEMBER (J)
SHRI S.KASIPANDIAN, MEMBER(A)

B.Ibrahim,
Sr. Sewage Gangman,
SR, Palghat.

.. Applicant

By Advocate Shri P.S.Sivan Pillai

V/s

1. The Divnl. Personnel Officer,
SR, Palghat.

2. P.Parthan,
Sr. Sewage Gangman,
SR, Palghat.

3. K.M.Kumaran, Sewage Gangman,
Through DPO, SR, Palghat.

4. P.Ramachandran, -do-

5. V.Arumugham, -do-

6. T.Aroo, -do-

7. M.Aroo, -do-

.. Respondents

By Adovacate Shri M.C.Churian (for Resp. No.1).

ORDER

N. DHARMADAN

Applicant is aggrieved by the denial of seniority in the post of Sewage Gangman w.e.f. 21.4.66 in terms of Annexure-A1 proceedings of the Assistant Engineer, Creosoting Plant, Olavakkot.

2. Facts are not disputed. Applicant is claiming seniority over respondents 2 to 7. According to him, he joined as Casual Labourer in the Engineering Department w.e.f. 21.7.61. While working in that post, his services

were utilised in various units, but he was regularised as Sewage Gangman retrospectively from 21.4.66 as per Annexure-A1 order. A period of one year probation was fixed in the order. He was given confirmation by subsequent proceedings, Annexure-A2, dated 1.9.68. Applicant is at serial No.27 and his date of confirmation is shown as 21.4.67. These orders have become final. But he was denied seniority on the basis of these orders at a later stage when the seniority list of non-artizans category, Annexure-A4, was issued on 10.11.88. In this seniority list, applicant has been shown as serial No.5 giving his date of entry in the grade as 6.12.67. He objected to the same by filing representation which was disposed of as per Annexure-A5 proceedings dated 14.1.93 rejecting his request for seniority based on Annexures-A1 and A2. Applicant is challenging Annexure-A4 seniority list and Annexure-A5 proceedings.

3. Learned counsel, Shri P.Sivan Pillai, appearing on behalf of applicant placed strong reliance on Annexure-A1 and submitted that the applicant was given retrospective regular appointment as Sewage Gangman on 21.4.66. His adhoc appointment was later confirmed by subsequent proceedings, Annexure-A2. These proceedings became final. In the light of these orders, he is eligible for regularisation retrospectively w.e.f. 21.4.66.

4. Respondents in the reply statement admitted the initial appointment of the applicant ^{was} w.e.f. 21.7.61. They have also admitted Annexures-A1 and A2. But, according to them, the applicant was selected for a posting as Colony Gangman w.e.f. 21.4.66 under the Assistant Inspector of Works/Colony, Olavakkode. Thereafter, on the basis of his request, the applicant was posted as Sewage Gangman as per Annexure-R3 dated 13.11.67. He joined as Sewage Gangman only on 6.12.67. Since respondents 2 to 7, in the meantime,

joined as Sewage Gangmen, they are seniors to the applicant. Hence, they have been shown as seniors to the applicant in the seniority list, Annexure-A4.

5. The statement in the reply that the applicant was posted as Sewage Gangman on the basis of his own request was strongly denied by the applicant in para 5 of the original application and rejoinder. It is the case of the applicant that during the period of casual service his service was utilised in various units and different capacities. Under that circumstances he was posted as Colony Gangman in the interest of the administration. Even though in Annexure-R3 it is stated that he has been posted as Sewage Gangman on his request, the applicant submitted that this posting was made really for administrative purposes and not for the convenience of the applicant at his request. If, as a matter of fact, the applicant had been posted as Sewage Gangman on the basis of his request, as shown in Annexure-R3, the applicant's regular posting and confirmation with retrospective effect would not have been issued as per Annexure-A1 on 17.5.68 and Annexure-A2 dated 1.9.68 granting him regularisation and confirmation as Sewage Gangman. Since Annexures-A1 and A2 orders became final and they conferred the benefit of retrospective regularisation to the applicant, the Railway cannot deny to the applicant the benefit of Annexures-A1 and A2. Hence, we are not accepting the contentions of the respondents.

6. The respondents 2 to 7 were also initially appointed as Casual Labourers. they were posted as Sewage Gangmen on the following dates:-

" P. Parthan (Resp. No.2) .. 21.6.66
K.M.Kumaran (Resp.No.3) .. 21.12.66
P.Ramachandran (R.No.4) .. 9.2.67
V.Arumugham (Resp.No.5) .. 23.2.67
T.Aroo (Resp.No.6) .. 7.9.67
M.Aroo (Resp. No.7) .. 22.7.67 "

If the dates in Annexures-A1 and A2 are to be taken into account, the respondents cannot claim seniority over the applicant, who got admittedly, retrospective regularisation as Colony Gangman with effect from 21.4.66 under Assistant Inspector of Works/Colony/Olavakkod.

7. In the light of the aforesaid discussions, we are inclined to allow the application after quashing Annexures-A4 and A5 to the extent they deny the benefit of regularisation to the applicant w.e.f. 21.4.66 as covered by Annexures-A1 and A2. We also direct the respondents to include applicant's name in the seniority list in the appropriate place taking into consideration his regularisation as Sewage Gangman w.e.f. 21.4.66. It goes without saying that applicant is entitled to all consequential benefits.

8. The O.A. is allowed as indicated above. There will be no order as to costs.



(S.KASIPANDIAN)
MEMBER(A)



(N.DHARMADAN)
MEMBER(J)

v/-