

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.302/2001.

Wednesday, this the 30th day of May 2001.

CORAM:

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

M.Ponnuswamy, Head Cook,
Vegetarian refreshment Room, Erode,
Palghat Division, Palghat. Applicant

(By Advocate Shri Siby J. Monippally)

VS.

1. Union of India represented by Chief Personnel Officer, Southern Railway, Chennai.
 2. Deputy Chief Commercial Manager, Southern Railway, Chennai.
 3. Senior Divisional Commercial Manager, Southern Railway, Palghat. Respondents

(By Advocate Shri James Kurien)

The application having been heard on 30th May 2001
the Tribunal on the same day delivered the following:

ORDER

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

None appears for the applicant even on the second call.

When the case was taken up on 21.5.2001 none appeared for the

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applicant. With a view to give the applicant a last opportunity, the case was adjourned to this date. Today neither the applicant nor his counsel is present. It appears that the applicant is not interested in prosecuting his case further. Hence the application is dismissed for default and non-prosecution..

Dated the 30th May, 2001.



T.N.T. NAYAR
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.302/2001

Tuesday this the 17th day of July, 2001

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

M.Ponnuswamy, Head Cook,
Vegetarian Refreshment Room,
Erode, Palghat Division,
Palghat residing at 420-E
Railway Colony, Erode.2.

Applicant

(By Advocate Mr.Siby J Monipally)
V.

1. Union of India represented by
the Chief Personnel officer,
Southern Railway,
Chennai.
2. Deputy Chief Commercial Manager,
Southern Railway, Chennai.
3. Senior Divisional Commercial Manager,
Southern Railway, Palghat.Respondents

(By Advocate Mr.James Kurien)

The application having been heard on 17.7.2001 the
tribunal on the same day delivered the following:

O R D E R

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

Applicant who commenced his career as Assistant
Cook on 23.3.78 and promoted as Senior Cook on 1.1.1992
is aggrieved that he has not been promoted to the post
of Master Cook in the Catering Department of the
Southern Railway, Madras on par with persons who are
junior to him and therefore, he has filed this
application for a declaration that he is legally
entitled to get promotion to the post of Master Cook in
the catering department, Southern Railway, Madras and to
direct the respondents to grant promotion to him to the
post of Master Cook in the Catering Department of the
Railways with effect from the date on which his juniors
were granted promotion to the post of Master Cook.

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2. It is alleged in the application that one A.N.Venkataraman who entered service on 22.3.1979, one Mr.K.M.Vaikuntan who entered service on 12.3.1979 and one P.Kuppan who entered service on 15.4.1978 have been promoted to the post of Master Cook ignoring the applicant's seniority. The representations submitted by the applicant in this regard have not evinced any response.

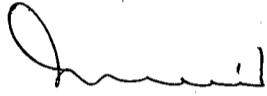
3. We have heard Shri Siby J Monipally, learned counsel of the applicant and have gone through the entire averments in the application as also the other materials placed on record. From the representation made by the applicant on 24.1.2000 (A2) it is seen that the applicant was pushed in seniority to the 12th position while the persons whose names have been given in the application have been placed above him. In Annexure.A2 representation he had prayed for restoration of the seniority. When the seniority list of Senior Cooks was circulated in July, 1998 the applicant, if he had a legitimate grievance regarding his placement therein should have immediately agitated that question. But he allowed the matter to rest. He did not make a representation for more than one and a half years. He followed it up with another representation dated 8.4.2000 (A3). The applicant is now claiming promotion to the post of Master Cook which is a higher post than Senior Cook. As the persons who have been promoted as Master Cook according to the seniority list ~~and~~ are seniors to the applicant in the grade of Head Cook, the applicant cannot claim promotion

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with effect from the date on which they were promoted. He had to first get his seniority restored, which claim has now been barred by limitation because the Seniority List admittedly was circulated in July, 1998.

4. In the light of what is stated above, we find that the applicant does not have a subsisting and legitimate cause of action, which calls for admission of this application and further deliberation. The application, is therefore, rejected under Section 19(3) of the Administrative Tribunals Act, 1985.

Dated the 17th day of July, 2001


T.N.T. NAYAR
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

(s)

List of annexures referred to:

Annexure.A2:True copy of representation submitted by applicant to the Chief Personnel Officer, Southern Railway Madras dated 24.1.2000.

Annexure.A3:True copy of representation submitted by the applicant before the Chief Personnel Officer, Southern Railway, Madras dated 8.4.2000.

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