

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A NO. 304 OF 2013

Thursday, this the 16th day of January, 2014

CORAM:

**HON'BLE MR.JUSTICE A.K.BASHEER, JUDICIAL MEMBER
HON'BLE Mr. K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

Akhilesh V.K
Askhila Nivas, Vettackal (PO)
Cherthala, Alappuzha District

... Applicant

(By Advocate Ms.S.Indu)

versus

1. The Divisional Railway Manager
Chennai Division, Park Town
Chennai – 3
 2. The Assistant Personnel Officer / Recruitment
Railway Recruitment Cell
No.5, Dr.P.V.Churian Crecent Road
Egmore, Chennai – 600 008
 3. The Assistant Personnel Officer (M&E)
Personal Branch
Divisional Office, Madurai
- ... Respondents

(By Advocate Mr.Thomas Mathew Nellimoottil)

The application having been heard on 16.01.2014, the Tribunal on the same day delivered the following:

ORDER

HON'BLE MR.JUSTICE A.K.BASHEER, JUDICIAL MEMBER

Applicant had participated in the selection process held by the Railway Administration to the post of Temporary Trackman. By Annexure A-4 communication dated February 28, 2013 issued by Respondent No.2, the applicant was informed that he had been provisionally selected and recommended for appointment to the above post. Still later, by Annexure A-5 communication dated March 2, 2013 the applicant was directed to inform whether he was prepared to accept the offer of appointment. It appears that

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when the applicant reported before the authority concerned to join duty, he was not allowed to do so.

2. The case of the applicant is that he is not being permitted to join duty by the respondents since two criminal cases are pending against him in C.C.No.1206/09 and C.C.No.1207/09 on the file of the Judicial Magistrate of First Class, Cherthala. In the former case, the offences alleged are punishable under Section 448, 294(b), 323, and 354 of the Indian Penal Code while in the latter, he has been arraigned as accused No.4 along with his father, brother and a neighbour for offences punishable under Section 294(b), 323, 324, 341 read with Section 34 Indian Penal Code. Admittedly, these cases are pending trial even now. The contention of the applicant is that these cases have been registered against him at the instance of his neighbours because of personal animosity. He contends that he is totally innocent in both the cases and that he is confident that he will be acquitted by the Criminal Court on completion of the trial.

3. Applicant has filed this Original Application seeking the following reliefs:-

(i) *Direct the respondents to permit the applicant to join duty as 'Ty Trackman' in Group 'D' services in Engineering Department of Madurai Division.*

(ii) *Declare that applicant is entitled to join duty as 'Ty Trackman' in Group 'D' services in Engineering Department of Madurai Division.*

(iii) *Direct the respondents to pass appropriate orders on Annexure A-15 application preferred by the applicant as expeditiously possible in accordance with law."*

4. We have heard Ms.Indu, learned counsel for the applicant at length and perused the entire materials available on record. We have also




heard the learned counsel for the respondents who contends that the above prayer is too far fetched and totally untenable, to say the least.

5. When this Original Application came up for admission on April 11, 2013 this Tribunal had issued an interim direction to the respondents to keep one post of Temporary Trackman unfilled for a period of two months. Thereafter, the said interim order was being extended from time to time and even as on today the said direction is in force.

6. Though Ms.Indu has made a persuasive plea to issue a direction to the respondents to allow the applicant to join duty subject to the out come of the criminal case, we are not inclined to issue any such direction for reasons more than one. It is beyond controversy that the two criminal cases have been pending before the trial court since 2009. Even though in the rejoinder filed by the applicant in July, 2013 he had claimed that the trial will be over within two months, it is conceded by him that the trial is no way near completion even now. Therefore, the prayer made by the learned counsel that the interim order be extended and made absolute till the conclusion of the trial cannot be countenanced at all. Equally preposterous is the plea that the Administration be directed to allow him to join duty pending the trial. The process of completion of the criminal proceedings like trial, appeal, revision etc. will necessarily take time. In that view of the matter we are not inclined to direct the respondents to keep one post vacant indefinitely.

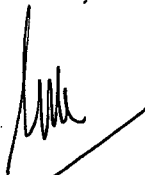
7. Any how, it is brought to our notice that the applicant has submitted Annexure A-15 representation seeking indulgence of the



Administration to give him time to join duty till the culmination of the criminal trial. We do not propose to deal with the merit or demerit of the above contention raised by the applicant at this stage. It will be open to respondent No.2 to take a decision on the above request in accordance with law after hearing the applicant in person. This shall be done as expeditiously as possible, at any rate, within one month from the date of receipt of a copy of this order. Till such a decision is taken, the interim order passed by this Tribunal on April 11, 2013 shall remain in force.

8. Original Application is **disposed** of in the above terms. No costs.

Dated, the 16th January, 2014



K GEORGE JOSEPH
ADMINISTRATIVE MEMBER



JUSTICE A.K.BASHEER
JUDICIAL MEMBER

VS

The words "respondent No.2" occurring in Paragraph 7 of the order dated 16.01.2014 in O.A.304/2013 are substituted with the words "respondent No.3".

(Vide order dated 05.03.2014 in R.A. 180/00004/2014)

By order,



REGISTRAR