

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A.No.322/98

Monday, this the 2nd day of August, 1999.

CORAM:

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

HON'BLE MR J.L.NEGI, ADMINISTRATIVE MEMBER

S.J.Benedict,
Electrical Signal Maintainer Grade.I,
Southern Railway,
Valliyur.

- Applicant

By Advocate Mr TC Govindaswamy

Vs

1. Union off India through
the General Manager,
Southern Railway,
Headquarters Office,
Madras-3.
 2. The Chief Personnel Officer,
Southern Railway,
Headquarters Office,
Madras-3.
 3. The Divisional Personnel Officer,
Southern Railway,
Palghat Division,
Palghat.
 4. The Divisional Personnel Officer,
Southern Railway,
Trivandrum Division,
Trivandrum-14.
 5. The Divisional Signal and
Telecommunication Engineer,
Southern Railway,
Podanur,
Coimbatore District.
- Respondents

By Advocate Mr Mathews J Nedumpara

The application having been heard on 2.8.99, the
Tribunal on the same day delivered the following:

O R D E R

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

The applicant presently working as an Electrical Signal Maintainer Grade.I, Valliyur in Tirunelveli of the Southern Railway, is aggrieved that though he has been continuously working as a Casual Labourer under the Senior Divisional Signal and Telecommunication Engineer(Sr.DSTE for short), Podanur from 15.3.1968 onwards till he was regularised on 17.8.1978, the respondents refused to grant him the benefit of temporary status with effect from 15.9.1968. The ground on which temporary status was not granted to the applicant at the appropriate time was that an erroneous view taken by the Railway Administration that DSTE is a project and not a regular establishment. After the Tribunal in its judgement in O.A.849/90 declared that Senior DSTE is a non-project regular establishment, the applicant made a representation to the 2nd respondent claiming the benefit of temporary status with effect from 15.9.1968. As the representation was not considered and disposed of, the applicant approached this Tribunal in O.A.258/93 which was disposed of by order dated 5.11.93 directing the respondents to consider and pass appropriate orders on his representation. This representation was considered and rejected by order dated 14.7.94 A-2 on the ground that the applicant did not produce the service card. The applicant thereafter obtained a photo copy of the service card A-4 and further made a representation to the 2nd respondent(A-5) which is yet to be considered and disposed of. Finding no response to this representation, the applicant has filed this application for a declaration that he is entitled to the benefit of temporary status with effect from 15.9.1968 and consequential benefits thereof and to direct the respondents accordingly.

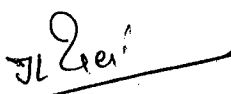
2. The respondents in their reply statement does not dispute that Sr.DSTE was declared to be a non-project regular establishment.


They have raised a plea of limitation. Further, in the reply statement it has been stated that the service card produced by the applicant is not free from suspicion.

3. We have perused the materials on record and have heard the learned counsel on either side. That the Senior DSTE is not a project but a regular establishment is now declared and well-established. Therefore, it follows that the casual labourers on completion of six months continuous service, they would attain temporary status. The plea of the respondents is that the application is belated and therefore barred by limitation, since the question of reckoning the period of temporary status for the purpose of retirement benefits would be relevant and germane only towards the end of once service. As the applicant is still in service and would attain the age of superannuation only a few years hereafter, we are of the considered view that the application is well within time. Coming to the question of eligibility of the applicant for grant of temporary status, the photo copy of the casual labour card produced by the applicant, A-4 is a photo copy obtained by him from the office of the 3rd respondent. Therefore the respondents cannot have any suspicion about the genuineness of the casual labour card as the card was with the third respondent. This plea therefore has no merit.

4. In the result, in view of what is stated above, the application is allowed. It is declared that the applicant has attained temporary status with effect from 15.9.1968 and the respondents are directed to grant the applicant the benefit of counting half the period thereafter till the date of his appointment on regular basis as qualifying service for pension. No costs.

Dated, the 2nd of August, 1999.


(J.L. NEGI)
ADMINISTRATIVE MEMBER


(A.V. HARIDASAN)
VICE CHAIRMAN

List of Annexures referred to in the Order:

1. A-2: A true copy of the order No.C.353/1319/92/Law/PGT dated 14.7.94 issued by the 2nd respondent.
2. A-4: True copies of the service cards of the applicant for the period from 15.3.68 to 31.12.77 issued by the Signal Inspector Works, Southern Railway, Podanur.
3. A-5: A true copy of the representation dated 20.9.96 submitted by the applicant to the 2nd respondent.