

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

....

DATE OF DECISION ... 16.3.1990

PRESENT

Hon'ble Shri N.V.Krishnan, Administrative Member
And
Hon'ble Shri N.Dharmadan, Judicial Member

ORIGINAL APPLICATION NO.K.324/1989

K.Chandran ... Applicant

Versus

1. Union of India, represented
by General Manager,
Southern Railway, Madras.
2. The Divisional Personnel Officer,
Southern Railway, Trivandrum.
3. Inspector of Works,
Southern Railway,
Trivandrum.
4. Senior Divisional Engineer,
Southern Railway,
Trivandrum. ... Respondents.

Mr. K.Vijayan ... Counsel for the applicant
Smt. Sumathi Dandapani ... Counsel for the respondent

ORDER

(Shri N.V.Krishnan, Administrative Member)

The applicant^{is} a casual labourer employed as
brick layer in the Civil Engineering Department under
Respondent-3. To regularise him on a Group D post the
second respondent has issued Annexure-I memorandum dated
26.4.89 empanelling the applicant for appointment as

a gangman. The memorandum also states as follows:

"Casual labourer Artisans attained temporary status in skilled grade are given option either to continue as Casual Labourer Artisans till such time sanction exists or accept the post of Gangman on empanelment with attendant scale applicable to the post of Gangman. In case they prefer to continue as Casual Labourer artisans it is made clear that they will be liable for termination from service as and when the sanction expires for the work in which they employed and they are expected to exercise their option in the format enclosed."

2. The applicant is aggrieved by the Annexure-I order. The pay of Gangman is less than his pay as Casual Labourer. He does not want to be regularized as Gangman. Instead the applicant wants to be absorbed directly in the skilled category.

3. The respondents have replied that there is no compulsion in the Annexure-I order. Instead a right to exercise option has been given.

4. When the case came up for hearing the counsel on either side stated that similar case have been disposed of in the past giving certain freedom to the applicants and that this case can also be disposed of on that basis.


5. Having perused the records and heard the counsel we are of the view that this should be disposed of by giving the following directions to the respondents and we do so. The directions are:


u (i) The respondents may not compel the

applicant to be regularized as a Gangman.

- (ii) As the applicant has refused empanelment as a Gangman he forfeits his right to such empanelment as Gangman in future.
- (iii) The applicant may continue to remain as brick layer and take his chance for regular appointment to the skilled category in accordance with the provisions of para 2512 of the Railway Establishment Manual.
- (iv) The applicant's appointment as brick layer can be terminated only in accordance with the provisions of law.

6. The application is disposed of with the above directions.


16/3/90.
(N. Dharmadan)
Judicial Member


16/3/90
(N. V. Krishnan)
Administrative Member