

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO.326 OF 2009

Tuesday....., this the 12th day of January, 2010.

CORAM:

**HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER
HON'BLE Ms.K.NOORJEHAN, ADMINISTRATIVE MEMBER**

K.K. Basheer,
Trackman, Under SE/P.Way/Southern
Railway/Kollengode, Palghat Division,
Permanent address: Manakkampattu
Peedikakkel House, Kamba, Kinavallor
Road Post, Parali, Palghat District.

... **Applicant**

(By Advocate Mr. T.C.G. Swamy)

versus

1. Union of India, represented by the
General Manager, Southern Railway,
Headquarters Office, Park Town
Post, Chennai-3.
2. The Senior Divisional Personnel Officer,
Southern Railway, Palghat Division,
Palghat. ... **Respondents**

(By Advocate Mr. Thomas Mathew Nellimoottil)

The application having been heard on 06.01.2010, the Tribunal
on12.1.2010..... delivered the following:

ORDER

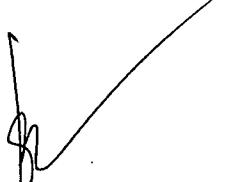
HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER

A silhouette of the facts of the case first : O.A. No. 225/05 filed by the applicant for a direction to the respondents to consider the case of the applicant for absorption on par with his juniors was decided on 18th April, 2005 with a direction to the respondents to consider and dispose of the pending representations filed by the applicant for such absorption. Annexure A-1 refers. Respondents, on the ground that the applicant did not turn up for screening at the time when a call notice was issued, rejected the claim, vide

Annexure A-2 communication dated 17-06-2005. This formed the cause of action in filing O.A. No.30/06 which was decided on 1st August, 2007 and a positive direction was given to the respondents to consider the case of the applicant for re-engagement/absorption as Group 'D' employee in preference to their juniors borne in the Live Register of retrenched casual labours. Seniority was also directed to be fixed on notional basis from the date similarly situated person with same or lesser number of days of service than the applicant had been absorbed as Group D employee. No arrears of pay was however, directed to be paid. Annexure A-3 refers. Accordingly the applicant was offered the appointment as Temporary Trackman in Engineering Department, vide Annexure A-4 dated 04-04-2008 and he joined the post on 15-04-2008. Request was then made by the applicant vide letter dated 05-10-2008 for consideration of his seniority on notional basis and also due fixation of pay as per the direction of the Tribunal, vide Annexure A-5. The said request was renewed vide Annexure A-6 letter dated 22nd March 2009. As no communication was received, this O.A. has been filed praying for a direction to the respondents to grant the applicant the benefit of re-engagement/absorption in seniority and fixation of pay on par with his juniors in the list of retrenched casual labourers of Palghat Division and benefits consequential thereto.

2. Respondents have filed their reply, in which they have cogently brought out the action taken by them, which included the following :-

(a) Fixation of pay on notional basis at Rs.2610/- in the pay scale of Rs.2610-3540 from 25-11-1998 when the immediate junior as per the live casual labour register was appointed.

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(b) Corresponding replacement scale as per the recommendations of the VI Pay Commission.

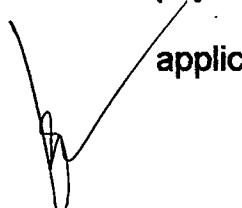
(c) As regards seniority, comparison with the junior is not possible as seniority is on section-wise and the section in which the applicant was posted has been attached to Palghat Division only w.e.f. 01-11-2007. As such, the applicant was afforded seniority at the highest position in the section, keeping in view the direction in Annexure A-3.

3. The applicant has filed his rejoinder stating that no order as to the notional fixation of pay as stated in the counter nor for that matter as to the notional fixation of seniority has been passed and they are bound to pass such an order.

4. Counsel for the applicant argued that there is nothing in the records to show as to how the applicant's pay had been fixed notionally. Again, there is no evidence to show that the applicant has been placed at the highest position in the seniority in the Section Engineer/P.Way/Kollengode Section as stated in the counter.

5. Counsel for the respondents reiterated what has been stated in the counter.

6. Arguments were heard and documents perused. There is no reason to disbelieve the averments of the respondents. Nevertheless, since, the pay particulars are bound to be entered in the service book of the applicant, respondents should, if not already done, record in the Service Book of the applicant, the details of fixation of pay w.e.f. 25-11-1998 and corresponding pay for subsequent periods, duly affording the annual increment to the applicant and likewise, grant of replacement scale. This should be shown to



the applicant and his initials obtained in token of his having seen the same. As regards seniority, if a seniority list of trackman in the section where the applicant has been serving has been prepared, a copy of the same be made available to the applicant. If not, as and when such a seniority is prepared, the applicant should be informed of the same and a copy of the same be handed over to him.

7. With the above direction, the O.A. is disposed of. No costs.

(Dated, the 12th January, 2010.)


K.NOORJEHAN
ADMINISTRATIVE MEMBER


Dr.K.B.S.RAJAN
JUDICIAL MEMBER

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