

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 330 of 2000

Wednesday, this the 6th day of December, 2000

CORAM

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

1. G. Sreenivasan, S/o. Gopal,
Ex-casual Labourer,
Southern Railway, Palghat Division,
Residing at: Sindalpadi PO,
Pappireddypatty Taluk,
Dharmapuri District, Tamilnadu. ...Applicant

[By Advocate Mr. T.C. Govindaswamy (rep.)]

Versus

1. Union of India, through the General Manager,
Southern Railway, Head Quarters Office,
Park Town PO, Madras-3
2. The Divisional Railway Manager,
Southern Railway,
Palghat Division, Palghat.
3. The Chief Engineer (Construction),
Egmore, Madras-3
4. The Senior Divisional Personnel Officer,
Southern Railway,
Palghat Division, Palghat. ...Respondents

[By Advocate Mr. K. Karthikeya Panicker]

The application having been heard on 6th of December, 2000,
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

The applicant seeks to quash A4 to the extent it does not take into consideration his casual service in full in assigning position in the Live Register, to grant consequential benefits thereof and to direct the respondents to include his name at the appropriate place in the list of retrenched casual labourers belonging to the Civil Engineering Department of Southern Railway, Palghat Division.

....2.

2. The applicant is a retrenched casual labourer of Palghat Division of Southern Railway. He was initially engaged for the period from 10-2-1982 to 16-9-1984 under the Inspector of Works, Southern Railway (Construction), Podanur Junction. From 20-9-1984 he was engaged under the Chief Permanent Way Inspector (Construction), Salem upto 24-7-1985, the date on which he was retrenched for want of work. In the Revised Integrated Seniority List of Project Casual Labourers in the territorial jurisdiction of Palghat open line division as on 1-1-1990, the applicant's name is shown as Serial No. 831, which has so done counting only 163 days of service under the Executive Engineer (Construction), Salem. A substantial part of his service has not been counted. Since there was no response to the representation submitted by him, he approached this Bench of the Tribunal by filing OA 1029/99, inter alia praying for a direction to the respondents to include his name at the appropriate place in the list of retrenched casual labourers belonging to the Civil Engineering Department of Southern Railway, Palghat Division. That OA was disposed of directing the Senior Divisional Personnel Officer to consider the representation submitted by the applicant and to give him an appropriate reply within three months from the date of receipt of a copy of the order. In pursuance of the same, A4, the impugned order, has been issued.

3. Respondents say that the applicant has not produced any document in support of his alleged CLR service under the Executive Engineer (Construction), Salem. This OA is barred by limitation. In respect of the alleged CLR service of the applicant as borne out from A1 was not furnished by the Executive Engineer (Construction), Podanur. The alleged CLR service under the Inspector of Works/Construction/Podanur was

not considered for placement in the Live Register, since the service particulars were not furnished by the Executive Engineer/Construction/Podanur.

4. This OA is filed against A4 order dated 22-12-1999 issued by the 4th respondent. The said order was issued by the 4th respondent as per directions of this Bench of the Tribunal in OA 1029/99. That being the position, there is no bar of limitation.

5. The applicant is relying on the service card issued in his favour. There is no dispute against A1, the service card copy produced by the applicant. Respondents say that as far as the applicant's casual labour service under the Executive Engineer (Construction), Salem is concerned, there is no document. It is admitted by the applicant.

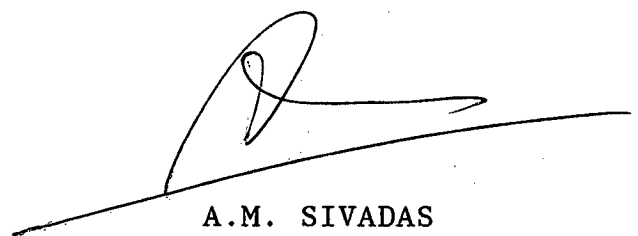
6. The representation which was directed by this Bench of the Tribunal as per order in OA 1029/99 to be considered by the 4th respondent is A2. In A2, it is specifically stated that copy of service card is enclosed. In A2, the applicant has stated that he has worked for 1035 days. In the impugned order, though says that the 4th respondent has carefully gone through A2 representation submitted by the applicant, there is no whisper about A1. The 4th respondent should have considered A1. Totally ignoring A1, A4 should not have been issued. In A4, the 4th respondent has stated that the applicant in his representation is contending that he had sent his service card for inclusion of his name in the Live Register. What made the 4th respondent not to consider A1, when there is no dispute raised as to the correctness or genuineness of A1, is not known. A4 only says that the applicant's name has been included in the Live Register. When the specific case of the

applicant as per A2 that he has worked for 1035 days and he has produced the service card which is not under dispute, the respondents cannot escape by saying that the Executive Engineer concerned has not forwarded the necessary particulars. If the Executive Engineer failed to do what is expected to do by him, the applicant cannot be found fault. It will appear from a reading of the reply statement that if the Executive Engineer commits a sin, the applicant has to carry the cross for the same. It cannot be so. There was no proper consideration of A2.

7. Accordingly, A4 is quashed. The 4th respondent is directed to consider A2 representation of the applicant with due application of his mind and with reference to A1 about which no dispute is raised by the respondents and pass appropriate orders within three months from the date of receipt of a copy of this order.

8. The Original Application is disposed of as above. No costs.

Wednesday, this the 6th day of December, 2000



A.M. SIVADAS
JUDICIAL MEMBER

ak.

List of Annexure referred to in this order:

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| 1. | A1 | True copy of the applicant's service card indicating the service under the Inspector of Works Gr.III, Construction, Podanur Junction. |
| 2. | A2 | True copy of the applicant's representation dated 29-3-1999 addressed to the 4th respondent |
| 3. | A4 | True copy of the Order bearing No. J/P O.A. 1029/99 dated 22-12-99 issued by the 4th respondent. |