

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 332
T. A. No. 1992

DATE OF DECISION 3.9.92

V.K. Murali edharan Pillai Applicant (s)

Mr. P. Sivan Pillai Advocate for the Applicant (s)

Versus

Union of India through General Respondent (s)
Manager, Southern Railway, Park Town P.O.
Madras-3 and others

Smt. Samathi Dandapani Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. P.S. Habeeb Mohamed, Administrative Member

The Hon'ble Mr. N. Dharmadan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? *Y*
2. To be referred to the Reporter or not? *NO*
3. Whether their Lordships wish to see the fair copy of the Judgement? *NO*
4. To be circulated to all Benches of the Tribunal? *NO*

JUDGEMENT

Mr. N. Dharmadan, Judicial Member

Applicant is a casual mazdoor who has been granted temporary status. He has stated that for granting regular absorption he was directed to undergo medical examination. Since he was found medically unfit in B-1 classification, he was engaged as Watchman under the Inspector of Works, Poojapura and he continues in that post. While so, on 19.10.84 he was granted temporary status vide Annexure A-1 letter. Thereafter, he was empanelled for the vacancies as on 30.6.88/30.12.88 vide Annexure A-2 order dated 26.9.89. By Annexure A-3 order, the applicant was also posted along with others as Watchman. While so, Annexure A-4 was issued directing the applicant to express his willingness to be absorbed as Drainage Khalasi, xx which the applicant refused on the ground that the declaration

Annexure A-4 indicated that persons who have been declared unfit in B-1 Classification but empanelled in lower medical classification against vacancies as on 30.6.88 should give their willingness. Applicant being a person who has been empanelled for absorption against vacancies as on 30.6.88 thought that he need not give any willingness pursuant to Annexure A-4. He submitted Annexure A-5 representation before the Sr. Divisional Engineer, Trivandrum requesting that he may be allowed to continue as Caretaker/Watchman/Valveman. This representation has not been disposed of so far. Hence, he approached this Tribunal filing this Original Application.

2. Respondents in the reply statement stated ~~xx~~ that the applicant is even now working as a casual employee and he is medically unfit for B-1 category. But as per Annexure A-3, he has been engaged as Watchman/Caretaker purely on working arrangement and not on the basis of regular order. Since the applicant did not express his willingness to be taken as a Drainage Khalasi, his case was not considered for regular appointment pursuant to Annexure A-4. They have also produced Annexure R-3(a) list of empanelled Drainage Khalasis in which the applicant's name is also included. It is further stated in the reply statement that there is no sanctioned post of Watchman/Caretaker.

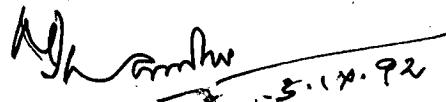
3. Applicant submitted that his name was included in Annexure A-3, he is entitled to be continued and absorbed as a regular Watchman and vacancies are available. However, he submitted that he can be absorbed in the post in which he is working from 1984 and he can be continued in that post. It is under that circumstance that he has filed Annexure A-5 representation for getting the above relief.

4. Since the representation Annexure A-5 has not been disposed of so far, after hearing learned counsel for both parties, we are satisfied that this application can be disposed of by issuing direction to the third respondent before whom the Annexure A-5 representation is pending.

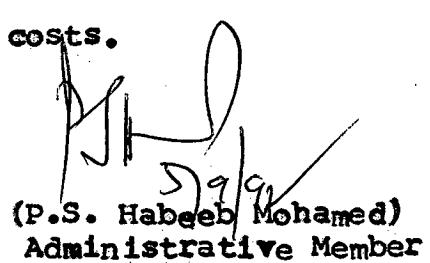
5. Accordingly, we direct the third respondent to consider and dispose of Annexure A-5 representation in accordance with law taking into consideration the fact that applicant is continuing in the Post of Watchman/Caretaker ever since his de-categorisation. This shall be done within a period of two months from the date of receipt of a copy of this judgment and serve a copy of the order on the applicant. Till a decision on Annexure A-5 representation is communicated to the applicant as directed above, the interim order passed by this Tribunal on 11.3.92 will continue.

6. In the result, the application is allowed.

7. There will be no order as to costs.


5.14.92

(N. Dharmadan)
Judicial Member


5.14.92

(P.S. Habeeb Mohamed)
Administrative Member

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