

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.343/04

Monday this the 4th day of April, 2005

C O R A M :

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

S.Manoharan,
S/o.Subramaniam,
Ex-Casual Labourer, Southern Railway, Palghat Division.
Residing at : Khaja Colony – 2, Mayannoor P.O.,
Krishnarayapuram Taluk, Karoor District,
Tamilnadu – 639 104. ...Applicant

(By Advocate Mr.T.C.Govindaswamy)

Versus

1. Union of India represented by the General Manager,
Southern Railway, Head Quarters Office,
Park Town P.O., Chennai – 3.
2. The Divisional Railway Manager,
Southern Railway, Palghat Division,
Palghat.
3. The Senior Divisional Personnel Officer,
Southern Railway, Palghat Division,
Palghat. ...Respondents

(By Advocate Mr.Sunil Jose)

This application having been heard on 4th April, 2005 the Tribunal on the same day delivered the following :

ORDER

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

The undisputed facts of the case is that the applicant who commenced casual service in the year 1981 and finally retrenched on 17.2.1990 was placed at Serial No.742 of the Live Register of retrenched casual labourers and he had put in 305 & ½ days of casual service. It is also not disputed that the applicant is within the age limit since he belongs to Schedule Caste for reengagement/absorption according to the

instructions issued by the Railway Board. The claim of the applicant for screening and absorption on par with his juniors in the Live Register has been turned down by Annexure A-5 order dated 20.3.2004 on the ground that the applicant had not produced the original casual labour card. It has been stated by the applicant that when he was called upon to report to the Divisional Office on 23.4.1999 he had produced the original casual labour card which was not returned to him.

2. The respondents contend that the applicant had not produced the original casual labour card and therefore he was not recommended for screening by the Committee and hence his claim is not sustainable.

3. The question that arises for consideration is whether in the facts and circumstances of the case the non production of the original casual labour card would disentitle the applicant for absorption on par with a person with lesser length of service than him as a retrenched casual labourer.

4. Learned counsel of the applicant submitted that what the respondents had given to him was not a casual labour card but only a casual labour service particulars the original of which the applicant had produced before the respondents on 23.4.1999 and now he has only a photo copy of the casual labour service particulars. Since the name of the applicant was placed in the Live Register at Serial No.742 on the basis of the details furnished by the Office and since the identity of the applicant or that he is within the age limit is not disputed learned counsel of the applicant argued that it is absolutely unfair on the part of the respondents to deny his legitimate claim for reengagement and absorption just for the reason that the original casual labour card is missing.

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5. Learned counsel for the respondents, on the other hand, argued that since all the casual labourers have been supplied with casual labour cards and the original casual labour card is required for the purpose of verification of the details, the applicant who failed to produce the original casual labour card is not entitled to the relief.

6. I have considered the rival contentions in the light of the factual backdrop. I find that the respondents are not disputing the fact that the applicant was a retrenched casual labour placed at Serial No.742 of the Live Register and that he had to his credit 305 & $\frac{1}{2}$ days of casual service. Even if the casual labour card is missing since the Live Register was prepared out of the details furnished by the Office of the respondents and the fact that the applicant was a retrenched casual labour is not disputed, I am of the considered view that the non production of the original casual labour card by the applicant, which is not in his possession, would not in law disentitle him for the legitimate claim for absorption on par with a person with lesser length of service than him if he is not found otherwise unsuitable for such absorption. The original casual labour card or casual labour particulars are required only for verification and determining the details of the engagement of the applicant. Even according to the respondents these details had already been verified by the respondents while deciding his placement in the Live Register at Serial No.742 with 305 & $\frac{1}{2}$ days of casual service to his credit. Further the applicant has with him a photo copy of the casual labour particulars. Since the identity of the applicant as retrenched casual labour at Serial No.742 is not at all disputed or doubted the fact that the card is not available with the applicant cannot be a reason to deny him his right to be treated on par with his juniors in the



Live Register.

7. In the light of what is stated above, I direct the respondents to have the case of the applicant considered by a Screening Committee without insisting on the production of original casual labour card and if he is not found otherwise unsuitable to consider his appointment on a Group D post with effect from the date on which a person junior to him in the Live Register and with lesser length of casual service has been appointed. If he is so appointed his pay should be notionally fixed and seniority properly assigned. The above directions shall be complied with within a period of four months from the date of receipt of a copy of this order. No order as to costs.

(Dated the 4th day of April, 2005)

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A.V. HARIDASAN
VICE CHAIRMAN